

**THIS BOOK CONTAINS AMENDMENTS ADOPTED THROUGH THE
FOLLOWING DATES:**

<u>Date</u>	<u>Title</u>			
10/3/83	Amend Special Permit Uses	Art. 8	200-35	
10/6/83	Non-Profit Multi-Family Housing	Art. 15	200-89	
4/9/84	Non-Profit Multi-Family Housing	Art. 8	200-35	
		Art. 15	200-89	
4/12/84	Used Car Lots	Art. 8	200-35	
10/1/84	Aquifer Protection District	Art. 8	200-38	
	Remove Storage in GB & HB District	Art. 8	200-35	
	Barbed Wire	Art. 12	200-64	
10/4/84	Multi-Family Residential	Art. 15	200-90	
10/10/85	Water Resources Protection (WRPD)	Art. 9	200-44	
	Street Definition	Art. 2	200-4	
	Limited Frontage Lots	Art. 12		
4/9/87	Aquifer Protection District	Art. 8	200-38	
10/8/87	Deletion of RC District	Art. 8	200-35	
	Wetland & Floodplain Protection	Art. 9	200-44	
1/19/88	Municipal Facilities (Hillview)	Art. 2	200-4	(C.)
		Art. 8	200-35	
4/3/89	Non-Criminal Disposition	Art. 5	200-22	
10/2/89	Aquifer Protection District	Art. 8	200-38	
	Wetland & Floodplain Protection	Art. 9	200-44	
10/7/91	Site-Plan Review	Art. 17		
	Amend HB District Uses	Art. 8	200-35	
		Art. 8	200-39	
4/6/92	Amend WFPD	Art. 9	200-44	
	Amend HB District Uses	Art. 8	200-39	
4/4/94	Amend Zoning Map (Increase HB)	Map		
	CPC Vice-Chairman	Art. 6	200-35	(A. 1.)
	Emergency Use of Trailers	Art. 15	200-88	(A.3.)
	Sign Special Permits			
10/3/94	Amend Parking in HB District	Art. 13	200-74	(F.)
	Amend Chapter 14 - Signs	Art. 14		

<u>Date</u>	<u>Title</u>			
10/2/95	Amend Street Definition	Art. 2	200-4	(C.)
	Amend Aquifer Protection District	Art. 8	200-38	
	Industrial/Office District	Art. 8	200-40	
..				
10/10/96	Amend Zoning Map Concord Street Increase I/O District		Map	
10/5/98	Site-Plan Review	Art. 8	200-39	(A. 2.) (B.1.)
	Site-Plan Review	Art. 8	200-40	(A. 2.) (A.)
	Site Plan Review	Art. 17	200-94	(A.)
	Transportation Uses	Art. 8	200-39	(D.)
4/8/99	Amend Zoning Map (Enlarge Aquifer Protection O/D boundaries)		Map	
10/4/99	Adult Uses	Art. 9	200-200	(45)
10/4/99	Amend Use Permitted By Special Permit (Antennas & Communications)	Art. 8	200-39	(D.)
10/4/99	Amend Uses Permitted (Antennas & Communications)	Art. 8	200-40	(D.)
4/6/00	Amend Personal Wireless Service Facilities (temporary)	Art. 9	200-46	
4/6/00	Amend-Adopt most recent Land-Use Classification Manual	Art. 8	200-39	(D.)
		Art. 8	200-40	(D.)
10/2/00	Amend - Table of Use Regulations (typographical errors corrected)			
10/12/00	Amend Personal Wireless Service Facilities	Art. 9	200-46	
4/2/01	Unaccepted Street - Adequate Access	Art. 18	200-100	
4/7/02	Amend Zoning Map (Current Revision Date)	Art. 7	200-30	
10/7/02	Amend Zoning Map (I/O District)		Map	
4/7/03	Amend Zoning Map (Current Revision Date)	Art. 7	200-30	
10/4/04	Amend Zoning Map (RM District)		Map	
4/4/05	Historical Preservation	Art. 7	200-101	
10/17/05	Amend Zoning Map (Current Revision Date)	Art. 3	200-30	
4/3/06	Berry Center Residential Smart Growth Overlay District	Art. 3	200-102	
4/9/07	Amend Historic Preservation	Art. 21	200-101	(D.6)

4/7/08	Amend Special Permits	Art. 6	200-28 (B. 1. 7. 8.) (D)
	Amend Designation of Districts	Art. 7	200-29 (B.1.)
	Amend Use Regulations	Art. 8	200-35 (4)
4/7/08	Open Space Residential Development	Art. 10	
	Amend Prohibited Signs	Art. 14	200-80 (N) (O)
	Amend Standards for granting special permits	Art. 14	200-84 (C.)
	Amend Adoption of regulations	Art. 17	200-97 (A.11.)
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ARTICLE I
Title, Purpose and Authority

§ 200-1. Title.

This bylaw shall be known and cited as the "Zoning Bylaw of the Town of North Reading, Massachusetts," and is hereinafter referred to as the "Zoning Bylaw."

§ 200-2. Purpose.

The purpose of this Zoning Bylaw shall be to promote the health, safety, convenience and general welfare of the inhabitants of North Reading; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; and to preserve and increase amenities within the Town of North Reading.

§ 200-3. Authority.

This Zoning Bylaw is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended, hereinafter referred to as the Zoning Act and to accept the provisions of Chapter 808 of the Acts of 1975.

ARTICLE II Definitions

§ 200-4. Word usage and definitions.

- A. In this Zoning Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the meaning given herein. Words used in the present tense include the future; the singular includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered" to be used or occupied; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory.
- B. Terms and words not defined herein but defined in the Massachusetts State Building Code and Town of North Reading General Bylaws, as amended, shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, 3rd Edition. Uses listed in the Table of Use Regulations under the classes Retail, Service and Commercial and Wholesale, Transportation and Industrial shall be further defined by the 1997 North American Industry Classification System. **[Amended 10-17-1991 OTM by Art. 21, approved 2-4-1992; 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-2-2000 OTM by Art. 16, approved 3-29-2001]**
- C. Definitions.

ABANDONMENT -- The purposeful discontinuation of a use of a building or lot; or the removal of the characteristic equipment or furnishings used in the performance of a nonconforming¹ use, without its replacement by similar equipment or furnishings; or the occurrence of the circumstances delineated in § 200-12.

ACCESSORY BUILDING -- A detached building, the use of which is customarily subordinate and incidental to that of the principal building located on the same lot.

ACCESSORY USE -- A use of a lot customarily subordinate and incidental to the principal use of the lot or to a structure on the lot.

BUILDING -- A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

¹ Editor's Note: Throughout this chapter, each instance of the word "nonconforming" was amended to "nonconforming" 10-2-2000 ATM by Art. 16, approved 3-29-2001.

BUILDING AREA -- The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces expressed as a percentage of total lot area.

BUILDING INSPECTOR -- The duly appointed official of the Town of North Reading charged, among other things, with enforcement of this Zoning Bylaw.

BUILDING PERMIT -- A permit issued by the Building Inspector for the construction, reconstruction, alteration or change of a structure as required by the Massachusetts State Building Code and this Zoning Bylaw.

CAMP -- A place consisting of more or less permanent structures used for vacationing or other recreational purposes.

CERTIFICATE OF COMPLIANCE -- A statement signed by the Building Inspector, setting forth either that a building or structure complies with this Zoning Bylaw or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

COUNTRY CLUB -- A suburban club with facilities for golf, other outdoor sports and social activities.

DECISION -- A determination made by the Zoning Board of Appeals pursuant to an appeal, an application for a special permit, or an application for a variance or a determination made by the Community Planning Commission pursuant to an application for a special permit. The term "decision" is synonymous with the term "finding." **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

DETACHED BUILDING -- A building having open space on all sides.

DISTRICT -- A zoning district as established by § 200-29 and 200-30 of this Zoning Bylaw.

DRIVE-IN RESTAURANT/TAKE-OUT RESTAURANT -- Premises and buildings used primarily for the sale, dispensing or serving of food, refreshments or beverages for consumption off the premises or consumption in vehicles temporarily parked on the premises, or at tables, benches or counters, the majority of which are out of doors.

DRIVE-IN USES -- A retail or consumer service use of land or a building in which the business transacted usually is conducted by a customer or client within his automobile.

DRIVEWAY -- A portion of a lot which is designed for vehicular access to a garage, or off-street parking or loading space.

DWELLING -- A privately or publicly owned permanent structure constructed pursuant to the provisions of the Massachusetts State Building Code, which is occupied in whole or in part as the home residence or sleeping place of one (1) or more persons. This term shall not include tents, trailers, campers or mobile homes. The terms "one-family," "two-family," or "multi-family" dwelling shall not include hotel, motel, lodging house, hospital, membership club, mobile home or dormitory.

DWELLING, MULTI-FAMILY -- A building or group of buildings containing four (4) or more dwelling units and including apartment house, garden apartment house and townhouse. Each unit may be owned by a separate owner. **[Amended 10-4-1984 OTM by Art. 14, approved 1-8-1985]**

DWELLING UNIT -- One (1) or more living and sleeping rooms providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation; but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy.

EMISSION -- Energy and/or matter issued into the environment as a direct consequence of any activity or use.

ERECT -- To construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot. The word "erect" shall include "building," "constructing," "reconstructing," "altering," "enlarging" and "moving."

ESSENTIAL SERVICES:

- (1) Services provided by public or private utility, or governmental agencies through erection, construction, alteration, removal, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead.
- (2) Facilities necessary for the provision of essential services including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith.
- (3) Specifically excluded from this definition are buildings necessary for the furnishing of adequate services by such public or private utility, or governmental agencies for the public health, safety or general welfare.

FAMILY -- An individual, or two (2) or more persons living together as a single housekeeping unit.

FINDING -- See "decision."

GRADE, FINISHED -- The average elevation of the ground at the conclusion of construction.

GROSS FLOOR AREA -- The sum of the areas of the several floors of a building as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics, or any floor space intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Zoning Bylaw. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

HEIGHT -- The vertical distance from the average finished grade of the adjacent ground to the highest point on the highest roof of the structure.

HOSPITAL -- A building providing twenty-four-hour in-patient services for the diagnosis, treatment or other care of human ailments, including a sanitarium, sanatorium, clinic, rest home, nursing home and convalescent home.

HOTEL -- A building or any part of a building containing rooming units for transient occupancy including an inn, motel, motor inn and tourist court, but not including a boardinghouse, lodging house or rooming house.

HOUSE TRAILER -- A mobile home.

JUNK -- Any worn out, cast off, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

JUNKYARD -- The use of more than two hundred (200) square feet of the area of any lot, whether inside or outside a building, or the use within ten (10) feet of the street lot line of any lot for the storage, keeping or abandonment of junk.

LANDSCAPING -- Improvements to land to enhance its attractiveness and facilitate its use and enjoyment by planting or removal of vegetation, application of pavement, surface materials or ground cover and minor grading which does not alter the overall surface drainage pattern. [**Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979**]

LIGHT MANUFACTURING -- Fabrication, processing or assembly employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or bright lights, refuse matter, electromagnetic radiation, heat or vibration.

LOADING SPACE -- An off-street space of at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than six hundred (600) square feet plus access and maneuvering space used exclusively for loading and unloading of goods and materials from one (1) vehicle.

LODGING HOUSE -- A building containing rooms for the semi-permanent use of one (1) or more individuals not living as a single family.

LOT -- A parcel of land used or available for use as the site of one (1) or more buildings and buildings accessory thereto in the same ownership throughout, as shown or defined on a recorded instrument or as otherwise defined by metes and bounds. A lot for the purpose of this Zoning Bylaw may or may not coincide with a lot of record title.

LOT, CORNER -- A lot at the point of intersection of and abutting on two (2) or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended street lot lines, being not more than one hundred thirty-five (135) degrees.

LOT DEPTH -- The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE -- The horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line. Frontage for purposes of this Zoning Bylaw shall be only continuous frontage and shall be measured only by one (1) front lot line for the purposes of corner lots.

LOT, INTERIOR -- A lot, the side lines of which do not abut on a street.

LOT LINE, FRONT -- The property line dividing a lot from a street right-of-way.

LOT LINE, REAR -- The lot line opposite from a front lot line and which does not intersect a front lot line.

LOT LINE, SIDE -- Any lot line not a front or rear lot line.

LOT, THROUGH -- A lot, the front and rear lot lines of which abut streets; or a corner lot, two (2) opposite lines of which abut streets.

LOT, WIDTH -- The horizontal distance between the side lot lines as measured at the minimum front yard depth required by this Zoning Bylaw, and parallel to the street line.

MASSAGE ESTABLISHMENT -- Any establishment or place of business wherein massage, as defined hereafter, for hire or reward, is administered or used as the primary use of the premises. "Massage" shall mean the practice of a massage of a person by hand or by any mechanical apparatus or both, including, without limitation, nonspecific stretching techniques, oil rubs, heat lamps, salt glows, hot or cold packs, tubs, showers, cabinet baths, steam and dry heat baths, and mineral water. "Massage" is also defined to include, without limitation, stroking, touching, kneading, vibration, friction and percussion, solely, or in combination or by means of any mechanical apparatus. **[Added 4-23-1979 ATM by Art. 22, approved 5-18-1979]**

MEMBERSHIP CLUB -- A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

MIXED USES -- The use of a building, structure, lot or portion thereof for more than one (1) permitted use.

MOBILE HOME -- Any vehicle except a camping trailer, travel trailer, self-contained motor home or other vehicles designed for similar purposes, used or so constructed as to permit its being used as a dwelling or sleeping place for one (1) or more persons and adaptable for running water and sanitary facilities whether or not such vehicle is actually immobile because of temporary or permanent utilities, connections, foundations or other features attached to a fixed site. Any such vehicle greater than eight (8) feet in width shall be considered a mobile home. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

MUNICIPAL FACILITY -- A physical facility, such as a parcel of real estate, a building or other structure, owned by the Town, where the activities conducted thereon are operated by Town employees or under a management agreement, lease or other contractual arrangements with the Town. **[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

MUNICIPAL FACILITY - GOLF COURSE -- A nine-hole or eighteen-hole golf course, including golf driving range, pro shop, swimming facilities, clubhouse, eating, drinking and dining facilities, function hall, other accessory buildings and parking areas incidental thereto, but not including miniature golf facilities. Excluded herein is the use of any motorized recreational vehicles except those used in conjunction with the operation of the golf course. **[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

MUNICIPAL FACILITY - INDOOR AND OUTDOOR RECREATION -- Indoor and/or outdoor recreation facilities, including physical fitness facilities and related pro shops, and accessory uses, but not including miniature golf facilities. **[Added 1-19-1988 STM by Art. 6, approved 2-2-1988]**

NOTICE AND ORDER -- A document issued by the Building Inspector pursuant to the provisions of § 200-21A of this Zoning Bylaw and requiring termination of zoning violations.

NURSING HOME -- See "hospital."

OVERLAY DISTRICT -- A zoning district such as the Floodplain District which is superimposed on other zoning districts and whose regulations are supplementary to those of the affected zoning districts so overlaid. Where there is a conflict between the Zoning Bylaw and an overlay district regulation or restriction, the more restrictive shall apply. **[Added 11-6-1978 OTM by Art. 12, approved 2-6-1979; amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

PARKING SPACE -- An off-street space at least nine (9) feet in width and twenty-one (21) feet in length on its shortest side for angle parking, or ten (10) feet in width and twenty (20) feet in length for other parking, having an area of not less than one hundred eighty-nine (189) square feet, plus access and maneuvering space, whether inside or outside a structure for use as a parking stall for one motor vehicle.

PRINCIPAL BUILDING -- A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE -- The main or primary purpose for which a structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this Zoning Bylaw.

SERVICE STATION -- A building or part thereof whose chief activity is the selling of gasoline, oil and related products for motor vehicles.

SPECIAL PERMIT -- A permit allowing the use of a structure or lot or any action upon a premises which may be permitted under this Zoning Bylaw only upon application to and the approval of the Zoning Board of Appeals or the Community Planning Commission in accordance with the provisions of § 200-28A and B.

SPECIAL PERMIT GRANTING AUTHORITY -- The Zoning Board of Appeals shall act as the special permit granting authority in all cases except those relating to special permits granted pursuant to Articles X and XI of this Zoning Bylaw in which case the Community Planning Commission shall act as the special permit granting authority. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

STORY -- The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third (1/3) of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is six (6) or more feet above the finished grade. An attic shall not be deemed a story if unfinished and without human occupancy.

STORY, HALF -- A story under a gable, hipped or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

STREET **[Amended 10-10-1985 OTM by Art. 19, approved 2-4-1986; 10-5-1995 OTM by Art. 36, approved 12-22-1995; 4-7-1997 ATM by Art. 22, approved 8-1-1997]:**

- (1) A public way; or
- (2) A way shown on a plan approved and endorsed under the Subdivision Control Law; or
- (3) A way in existence on or before September 19, 1944, having in the opinion of the Community Planning Commission sufficient width [which is at least twenty-one (21) or more feet in right-of-way width], suitable grades and adequate construction to provide for the need of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE -- A combination of materials for occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, shelters, piers, wharves, bin, fence, sign, swimming pool or the like.

TOWNHOUSE -- Three (3) or more attached single dwelling units whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner.

TRAVEL TRAILER, CAMPING TRAILER, CAMPER and SELF-CONTAINED MOTOR HOME -- A recreational vehicle or camper (pick-up coach) which is immediately portable, and is arranged, intended, designed or used for sleeping and/or eating but which is not designed as a permanent dwelling unit and is eight (8) feet wide or less. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

USE -- The purpose for which a structure or land is used or intended to be used.

USED CAR LOT -- An open lot on which motor vehicles, either exclusively or predominantly used, and in running condition, are displayed for sale.

USE, SUBSTANTIALLY DIFFERENT -- A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

YARD, FRONT -- The area extending the full width of the lot between the street lot line and the front wall line of the nearest building.

YARD, REAR -- The area between the rear lot line and the nearest wall of the principal building or structure.

YARD, SIDE -- The area between the side lot line and the nearest wall of the principal building or structure.

ARTICLE III
Interpretation and Application

§ 200-5. Interpretation.

The provisions of this Zoning Bylaw shall be interpreted to establish minimum standards adopted for the promotion of the purposes enumerated in § 200-2 of this Zoning Bylaw and shall supersede all prior Zoning Bylaws of the Town of North Reading. The provisions of this Zoning Bylaw are not intended to amend, abrogate, annul, repeal or in any way impair or interfere with any lawfully adopted bylaw, rules or regulations. Whenever the provisions of this Zoning Bylaw differ from those prescribed by any conflicting statute, bylaw or other regulation of any governmental authority, that provision which imposes the greater restriction or the higher standard shall govern.

§ 200-6. Application.

Except as hereinafter provided, the provisions of this Zoning Bylaw shall apply to the erection, construction, reconstruction, relocation, alteration and use of buildings, structures, land, wetlands and bodies of water. It shall further apply to any change or substantial extension of such use or structure and to building and special permits.

§ 200-7. Mixed uses.

In case of mixed uses, the regulation for each use shall apply to the portion of the building or land so used. Where mixed uses of the same space exist, the more restrictive regulations shall apply.

ARTICLE IV
Nonconforming Uses, Structures and Lots

§ 200-8. Nonconforming uses and structures.

Except as provided in § 200-10D and E, 200-12, 200-17 and 200-20, neither this Zoning Bylaw nor any amendment thereto shall apply to uses or structures lawfully in existence, or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on said Zoning Bylaw or amendment. Such structures and uses shall hereinafter be called "nonconforming uses and structures." The lawful use of any structure or land existing at the time of enactment of this Zoning Bylaw may continue, except as otherwise provided.

§ 200-9. Intent and interpretation; definitions.

- A. It is the intention of this Zoning Bylaw that this article shall be construed against the perpetuation, extension, increase or change of nonconforming uses and structures.
- B. An increase in the nonconforming nature of a structure for the purposes of this article will result when the portion added to the structure violates any provision of this Zoning Bylaw applicable at the time of application for the building permit required for such addition. An increase will not result from a mere replacement, without undue delay, of a nonconforming portion. (Example: Any extension to an existing porch, which porch is totally beyond the permissible side lot line requirement before said proposed extension, would constitute an increase in the nonconforming nature of a structure whether the extension was toward the side lot line or parallel to the side lot line, although the closest point of the porch would be no closer to the lot line.)
- C. Definitions.

ALTERATION -- Shall be defined as any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of land, a building or other structure.

EXTENSION -- Shall include without limitation the following: any increase in physical size, intensity of use or hours or periods of operation. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**

NONCONFORMING STRUCTURE, BUILDING OR LOT -- Shall be defined as a structure, building or lot that does not conform to a dimensional regulation prescribed by this Zoning Bylaw for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure, building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

NONCONFORMING USE -- Shall be defined as a use of a structure, building or lot that does not conform to a use regulation prescribed by this Zoning Bylaw for the district in which it is located, but which use was in existence at the time the use regulation became effective and was lawful at the time it was established.

SUBSTANTIALLY MORE DETRIMENTAL -- Shall be defined as observable and definably more objectionable to the neighborhood.

§ 200-10. Reconstruction, alteration, increase, extension or change.

- A. A special permit by the Zoning Board of Appeals shall be required for any reconstruction, alteration, increase, extension or change of a nonconforming use or structure except as provided in Subsection D.
- B. No special permit required by Subsection A pertaining to a nonconforming structure shall be granted unless there has been a finding by the Zoning Board of Appeals that the contemplated reconstruction, alteration, increase, extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Such reconstruction, alteration, increase, extension or change shall be in conformity with dimensional and density requirements not previously violated.
- C. No special permit required by Subsection A with respect to nonconforming use shall be granted unless there has been a finding by the Zoning Board of Appeals that the use to be substituted will be less objectionable than the prior use.
- D. Single- or two-family residential buildings may be reconstructed, altered, extended or structurally changed for continued single- or two-family use providing there is a determination by the Building Inspector that such reconstruction, alteration, extension or structural change in no way increases the nonconforming nature of said structure.
- E. Any nonconforming structure, or portion thereof, which has been reconstructed, altered, extended or structurally changed so as to become conforming shall thereafter be subject to all the provisions of this Zoning Bylaw.
- F. Any nonconforming use which has been changed to a permitted use shall thereafter be subject to all the provisions of this Zoning Bylaw.
- G. Reconstruction of unsafe structures shall be governed by Subsections A and B and § 200-12A.

§ 200-11. Nonconforming lots.

Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

§ 200-12. Abandonment.

- A. A nonconforming structure, or portion thereof, which has been declared to be unsafe by the Building Inspector may be considered abandoned unless an application for a building permit to reconstruct is filed within one (1) year of said determination.
- B. Nonconforming uses or structures which have not been used for a period of two (2) years or more, or which have been abandoned shall thereafter be subject to all the provisions of this Zoning Bylaw.

§ 200-13. Restoration.

Restoration of any nonconforming structure damaged by fire, explosion or other catastrophe shall be governed by § 200-10A, B and D unless the Building Inspector makes a determination that the restoration is only to repair or replace the damaged areas.

§ 200-14. Reduction or increase in lot size.

A part of a lot shall not be added to another lot so as to result in a nonconformity or increase in nonconformity of the lot reduced in size.

§ 200-15. Reduction of parking or loading spaces.

Any off-street parking or loading spaces, if already equal to or less than the number required to serve their intended use, shall not be further reduced in number.

ARTICLE V
Administration and Enforcement

§ 200-16. Enforcement.

This Zoning Bylaw shall be enforced by the Building Inspector who may require the submission of plans, specifications and other information which he deems to be necessary to determine compliance with its provisions.

§ 200-17. Building permit required.

- A. No structure shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished without obtaining a building permit. The Building Inspector shall withhold such building permit if the building or structure as constructed, reconstructed, enlarged, altered or moved would be in violation of any provision of this Zoning Bylaw.
- B. Any amendment to this Zoning Bylaw shall apply to building permits issued after the first notice of public hearing on such amendment.

§ 200-18. Certificate of compliance.

- A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of compliance has been issued by the Building Inspector. The certificate of compliance shall not be issued until all work has been completed in accordance with the provisions of the approved permits and of the applicable sections of this Zoning Bylaw.
- B. No use of a structure, a lot or a portion of a structure or a lot shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The certificate of compliance shall not be issued unless the Building Inspector is satisfied that the proposed use will be in conformity with the applicable sections of this Zoning Bylaw.

§ 200-19. Other approvals required.

- A. The Building Inspector shall not issue a building permit until he is satisfied that all necessary variances, special permits or extensions, modifications or renewals thereof have been granted.
- B. The Building Inspector shall not issue a building permit for any lot that falls within a subdivision until advised in writing by the Community Planning Commission that said lot has been released from the covenant imposed by said Commission in connection with the approval of the subdivision plan.

§ 200-20. Permit time limits.

- A. Any building permit issued by the Building Inspector shall become invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended for a period of one (1) year after the time the work is commenced; provided that, for cause, one (1) or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the Building Inspector.
- B. Construction or operations under a building or special permit shall conform to any subsequent amendment of this Zoning Bylaw unless the use or construction is commenced within six (6) months after the issuance of the building permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- C. Preliminary work by way of preparation of the site for new construction such as excavating or removal of old buildings does not constitute the commencement of construction.

§ 200-21. Notice and order.

- A. If the Building Inspector is informed, or has reason to believe that any provision of this Zoning Bylaw or of any permit or certificate of compliance is being, or is about to be violated, he shall make or cause to be made an investigation of the facts, including an inspection of the property where the violation may exist, and, if he finds any violation, he shall immediately issue to the owner of the premises, or his duly authorized agent, and to the occupant of the premises, a written notice and order describing each violation found and ordering immediate discontinuance thereof. Such notice and order shall be sent by certified mail, return receipt requested.
- B. If, after such notice and order, any violation continues, or if any owner, agent or occupant fails to obey any lawful order of the Building Inspector with respect to any violation or any use contrary to the provisions of this Zoning Bylaw, the Building Inspector shall immediately revoke all permits and certificates issued with respect to said premises and shall make complaint to the Superior Court seeking injunctive relief restraining the further use of the premises, and shall take such other action as is necessary to enforce the provisions of this Zoning Bylaw.
- C. If the Building Inspector is requested in writing to enforce the provisions of this Zoning Bylaw against any person allegedly in violation of the same and after investigation he acts or declines to act, he shall notify the party requesting such enforcement of any action taken, or refusal to act, stating the reasons therefor. Such notification shall be made in writing within fourteen (14) days of receipt of such request.
- D. Any person who has been served with a notice and order shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health or general welfare.

§ 200-22. Violations and penalties; noncriminal disposition. [Amended 4-24-1989 ATM by Art. 24, approved 6-20-1989]

- A. Violations. The provisions of this Zoning Bylaw shall be enforced by noncriminal complaint pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. The Building Inspector taking cognizance of a violation of a specific Zoning Bylaw which he is empowered to enforce, as an alternative to initiating criminal proceedings, shall give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offenses charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.
- B. Penalties. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense beginning with the date of receipt of the notice and order issued pursuant to § 200-21A of this Zoning Bylaw. The penalty for violation of any provision of this Zoning Bylaw shall be as follows:
 - (1) First offense: written warning.
 - (2) Second offense: \$50.
 - (3) Third offense: \$100.
 - (4) Fourth and subsequent offenses: \$200.

ARTICLE VI
Appeals, Variances and Special Permits

§ 200-23. General provisions.

- A. Zoning Board of Appeals and Community Planning Commission. Appeals, applications for variances and applications for special permits shall be heard and decided by the Zoning Board of Appeals or the Community Planning Commission, as applicable, pursuant to the powers enumerated in § 200-24B and 200-25B of this Zoning Bylaw. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**
- B. Adoption of rules. The Zoning Board of Appeals and the Community Planning Commission shall adopt and from time to time may amend rules for conducting business and otherwise carrying out the purposes of this Zoning Bylaw. A copy of such rules shall be filed in the office of the Town Clerk.
- C. Public hearings.
 - (1) The Zoning Board of Appeals and the Community Planning Commission shall hold hearings under this article within sixty-five (65) days of receipt of any appeal, application for variance or application for special permit.
 - (2) Hearings under this article shall be advertised and conducted in accordance with Sections 9, 11 and 15 of the Zoning Act and shall be open to the public. Hearings shall be held at the call of the Chairman or when called in such other manner as the Zoning Board of Appeals or the Community Planning Commission shall determine in their rules.
- D. Notice of public hearing.
 - (1) The Zoning Board of Appeals or the Community Planning Commission shall cause notice of hearings under this article to be sent to parties in interest as provided for in Section 11 of the Zoning Act; shall cause notice to be published in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing; and shall cause such notice to be posted in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing.
 - (2) "Parties in interest" as used in this article shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another town, the Planning Board of every abutting town and the Community Planning Commission of the Town of North Reading.

- E. Record of proceedings. There shall be kept a detailed record of all proceedings under this article indicating the vote of each member upon each question, or if absent or failing to vote indicating such fact. Such record shall set forth clearly the reason or reasons for the decision reached or action taken. Copies of such record shall, within fourteen (14) days, be filed in the office of the Town Clerk and shall be a public record.
- F. Notice of decision. Copies of the decision or finding shall be mailed to parties in interest as defined in Subsection D(2) above and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk.
- G. Repetitive application. Except as provided in Section 16 of the Zoning Act, no appeal or application which has been denied by the Zoning Board of Appeals or the Community Planning Commission shall be acted favorably upon within two (2) years after the date of final unfavorable action.
- H. Withdrawal of application or appeal. Any appeal, application for a variance or application for a special permit which has been transmitted to the Zoning Board of Appeals or the Community Planning Commission may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of the public hearing thereon but thereafter may be withdrawn without prejudice only with the approval of the Board or Commission to which application was made.
- I. Other requirements.
 - (1) The granting of any appeal, variance or special permit by the Zoning Board of Appeals or the Community Planning Commission shall not exempt the applicant or the subject property from any provision of this Zoning Bylaw not specifically ruled upon by the Zoning Board of Appeals or the Community Planning Commission and specifically set forth in its findings. Construction, reconstruction, alteration, change and use of structures and premises which are the subject of an appeal, variance or special permit shall be in conformity with the provisions of this Zoning Bylaw except where specifically exempted in said findings and shall be in conformity with any restrictions, limitations, or special conditions imposed therein unless the applicant shall file a subsequent application seeking to modify the initial findings.
 - (2) Where authorization of a use of land or of a structure is required by the Zoning Board of Appeals, a copy of such authorization shall be sent by the Clerk of the Board to the Building Inspector, within ten (10) days of granting of approval and shall be received by the Building Inspector prior to the issuance of a permit.
- J. Appeal to Superior Court.
 - (1) Any person aggrieved by a decision or finding of the Zoning Board of Appeals or the Community Planning Commission, or any municipal officer or board, may appeal to the Superior Court for Middlesex County or the Land Court by bringing an action within twenty (20) days after the decision or finding has been filed in the office of the Town Clerk.

- (2) The Town may provide any officer or board of the Town with independent legal counsel for appealing a decision or finding of the Zoning Board of Appeals or the Community Planning Commission and for taking such other subsequent action as parties are authorized to take, all as provided in Section 17 of the Zoning Act.

§ 200-24. Zoning Board of Appeals.

A. Membership.

- (1) The Zoning Board of Appeals shall consist of three (3) members appointed by the Board of Selectmen. Appointment shall be for three-year terms, so arranged that the term of one (1) member shall expire each year. The Zoning Board of Appeals shall annually elect a Chairman and a Clerk.
- (2) The Board of Selectmen shall also appoint, in like manner and for like terms, three (3) associate members who may be designated by the Chairman of the Zoning Board of Appeals to sit on the Board in case of absence, inability to act or conflict of interest on the part of any member thereof or in the event of a vacancy on the Board until said vacancy is filled by the Board of Selectmen.
- (3) Any member or associate member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing.

B. Powers. The Zoning Board of Appeals shall have the following powers:

- (1) **[Amended 10-17-1991 OTM by Art. 21, approved 2-4-1992]** To hear and decide appeals pursuant to § 200-26 and Article XVII of this Zoning Bylaw;
- (2) To hear and decide upon applications for variances from the applicable provisions of this Zoning Bylaw pursuant to § 200-27 of this Zoning Bylaw;
- (3) To hear and decide upon applications for special permits pursuant to § 200-10A; and
- (4) To hear and decide upon applications for special permits pursuant to § 200-28 of this Zoning Bylaw except those applications for cluster and planned unit developments which are to be acted upon by the Community Planning Commission pursuant to § 200-25B of this Zoning Bylaw.

C. Unanimous vote required. All of the powers vested in the Zoning Board of Appeals must be exercised pursuant to a unanimous vote of that Board.

§ 200-25. Community Planning Commission.

A. Membership.

- (1) The Community Planning Commission shall consist of five (5) members elected for three-year overlapping terms. The Community Planning Commission shall annually elect a Chairman, Vice Chairman and a Clerk. **[Amended 4-4-1994 ATM by Art. 19, approved 7-26-1994]**
- (2) The Community Planning Commission may appoint associate members who shall serve only in an advisory capacity.

B. Powers and duties. The Community Planning Commission shall have the following powers and duties:

- (1) Those powers and duties specified in Chapter 3, Section 8 of the North Reading Town Charter;
- (2) Those powers and duties specified in Massachusetts General Laws Chapter 41 concerning municipal planning and subdivision control; and
- (3) Those powers and duties specified in the Zoning Act including, but not limited to, the following:
 - (a) To hear and decide upon applications for special permits pursuant to § 200-28 of this Zoning Bylaw pertaining to planned unit and cluster developments;
 - (b) To review and hold a public hearing on the adoption or amendment of a Zoning Bylaw and to submit a report to Town Meeting with recommendation thereon;
 - (c) To issue a report to the Town Meeting containing recommendations relating to repetitive petitions for changes in the Zoning Bylaw;
 - (d) To consent or withhold consent to a repetitive application as provided in Section 16 of the Zoning Act; and
 - (e) To hear and decide upon applications for site plan review pursuant to Article XVII of this Zoning Bylaw. **[Added 10-17-1991 OTM by Art. 21, approved 2-4-1992]**
 - (f) To hear and decide upon applications for special permits pursuant to § 200-46 of this Zoning Bylaw. **[Added 10-12-2000 OTM by Art. 32, approved 3-29-2001]**

C. Vote required.

- (1) A concurring vote of three (3) of the five (5) members shall be required for the exercise by the Community Planning Commission of its powers enumerated under Subsection B(1), (2) and (3)(b), (c) and (e). **[Amended 10-17-1991 OTM by Art. 21, approved 2-4-1992]**
- (2) A concurring vote of four (4) of the five (5) members shall be required to exercise the

powers conferred by Subsection B(3)(a) and (d) and (f). **[Amended 10-12-2000 OTM by Art. 32, approved 3-29-2001]**

§ 200-26. Appeals.

- A. An appeal to the Zoning Board of Appeals may be taken by the person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector. An appeal to the Zoning Board of Appeals may be taken by the Metropolitan Area Planning Council, or by any person including an officer or board of the Town, or of an abutting town aggrieved by an order or decision of the Building Inspector in violation of any provision of this Zoning Bylaw or of the Zoning Act.
- B. Any appeal shall be taken within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk who shall, within two (2) business days, transmit copies of the notice of appeal to such officer or board whose order or decision is being appealed, and to the Zoning Board of Appeals. Such officer or board shall, within seven (7) days, transmit to the Zoning Board of Appeals copies of all documents and papers constituting the record of the case in which the appeal is taken.
- C. The Zoning Board of Appeals, in exercising the powers granted under this section, may make orders or decisions, reverse, affirm or modify, in whole or in part, any order or decision, may issue or direct the issuance of a permit and shall have all the powers of the Building Inspector.
- D. The decision of the Zoning Board of Appeals shall be rendered within one hundred (100) days of the filing of an appeal with the Town Clerk. Failure of the Zoning Board of Appeals to act within said one hundred (100) days shall be deemed to be the grant of the relief sought subject to an applicable judicial appeal as provided for in the Zoning Act. **[Amended 10-2-2000 OTM by Art. 16, approved 3-29-2001]**

§ 200-27. Variances.

- A. After a public hearing upon an appeal pursuant to § 200-26 of this Zoning Bylaw or upon an application for a variance the Zoning Board of Appeals may grant a variance from the terms of any applicable section of this Zoning Bylaw. However, the Zoning Board of Appeals shall not grant a variance relating to the use of land or structures.
- B. An application for a variance shall be filed with the Town Clerk, who shall, within two (2) business days, transmit a copy of such application to the Zoning Board of Appeals.
- C. The decision of the Zoning Board of Appeals shall be rendered within seventy-five (75) days of the filing of the application with the Town Clerk. Failure of the Zoning Board of Appeals to act within said seventy-five (75) days shall be deemed to be the grant of the relief sought in the application, subject to an applicable judicial appeal as provided for in the Zoning Act.
- D. The Zoning Board of Appeals shall not grant a variance unless it specifically finds that each of the following conditions are fulfilled:
 - (1) That owing to the circumstances relating to the soil conditions, shape or topography of the

land or structure involved and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Zoning Bylaw would involve substantial hardship, financial or otherwise, to the applicant; and

- (2) That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw.
- E. The Zoning Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structure, but excluding any condition, safeguard or limitation based upon continued ownership.
- F. Upon the granting of a variance, extension, modification or renewal thereof, the Zoning Board of Appeals shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the Zoning Board of Appeals, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such variance and certifying that copies of the decision and all plans referred to in the decision have been filed with the Community Planning Commission and the Town Clerk.
- G. No variance or extension, modification or renewal thereof shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if an appeal has been filed, it has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. The recording or registration shall be the responsibility of the owner or applicant who shall, thereafter, provide the Zoning Board of Appeals with a copy of the decision bearing the stamp of the Registry of Deeds or Land Court indicating the date and time of recording or registration and the book and page number assigned the document. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**
- H. The rights authorized by a variance shall lapse unless construction is commenced within one (1) year of the grant of the variance and is continued through to completion as continuously and expeditiously as is reasonable. In the event of such a lapse, the variance may be re-established only after notice and a new hearing.
- I. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Zoning Board of Appeals in authorizing a variance without making new application to the Zoning Board of Appeals for approval of such action.

§ 200-28. Special permits.

- A. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-4-1984 OTM by Art. 14, approved 1-8-1985; 10-17-1991 OTM by Art. 21, approved 2-4-1992; Amended 4-7-2008 ATM by Art. 26, approved 6-27-2008]** Zoning Board of Appeals as special permit granting authority. The Zoning Board of Appeals shall have the power, upon written application, to grant special permits for

the following exceptions, activities and uses:

- (1) Uses requiring special permits pursuant to Articles VIII and IX of this Zoning Bylaw;
- (2) Exceptions to parking space requirements pursuant to § 200-75 of this Zoning Bylaw;
- (3) Reconstruction, alteration, increase or change in a nonconforming use or structure pursuant to § 200-10A of this Zoning Bylaw;
- (4) Special permits for alternate screening methods pursuant to § 200-64A of this Zoning Bylaw; and
- (5) Special permits for other activities and uses requiring a special permit pursuant to the terms of this Zoning Bylaw except in connection with cluster residential developments, multi-family residential developments and planned unit developments, and personal wireless service facilities. **[Amended 10-12-2000 OTM by Art. 32, approved 3-29-2001]**
- (6) Special Permits for Historical Preservation pursuant to XIX § 200-101 of this Zoning Bylaw. **[Added 4-4-2005 ATM by Art. 7, approved 7-19-2005]**

B. Community Planning Commission as special permit granting authority. The Community Planning Commission shall have the power, upon written application, to grant special permits for the following uses:

- (1) **[Amended 4-7-2008 ATM by Art. 27, approved 6-27-2008]** Open Space Residential Developments pursuant to Article X of this Zoning Bylaw; and
- (2) Planned unit developments pursuant to Article XI of this Zoning Bylaw;
- (3) **[Added 10-4-1984 OTM by Art. 14, approved 1-8-1985]** Multi-family residential developments pursuant to § 200-90 of this Zoning Bylaw;
- (4) **[Added 10-17-1991 ATM by Art. 21, approved 2-4-1992]** Special permits relating to signs issued pursuant to § 200-84; and
- (5) Special permits relating to activity in the floodplain district pursuant to § 200-44.
- (6) Special permits relating to personal wireless service facilities pursuant to § 200-46 of this Zoning Bylaw. **[Added 10-12-2000 OTM by Art. 32, approved 3-29-2001]**
- (7) **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]** In any zoning district, the Community Planning Commission shall be the Special Permit Granting Authority for all special permits in a Priority Development Site designated by Town Meeting pursuant to M.G.L. c.43D.
- (8) **[Added 4-7-2008 ATM by Art. 27, approved 6-27-2008]** Special Permits relating to the Affordable Housing Overlay District.

- C. Procedural requirements for the grant of a special permit. The grant of a special permit shall be accomplished pursuant to the general provisions contained in § 200-23 of this Zoning Bylaw and pursuant to the following procedural requirements:
- (1) An application for a special permit shall be filed with the special permit granting authority and a copy of such application shall forthwith be given to the Town Clerk by the applicant. The application shall be accompanied by a site plan prepared in accordance with the requirements of Subsection D of this section unless the special permit granting authority waives or modifies said requirements.
 - (2) Whenever an application for a special permit is filed with the Community Planning Commission, the Commission shall submit a copy of such application to the Board of Health, the Building Inspector, the Conservation Commission, the Town Engineer, the Police Department, the Fire Department and the School Department for their review. The application forwarded to each reviewing party shall be accompanied by all supportive materials filed with the application which may be necessary to an adequate review by that reviewing party. Each reviewing party may make such recommendations as it deems appropriate and shall send a report of such recommendations to the Community Planning Commission. A copy of such report shall be forwarded to the applicant. Failure of any reviewing party to make recommendations within thirty-five (35) days of receipt by the reviewing party of a copy of the application for special permit shall be deemed a lack of opposition to such application.
 - (3) Whenever an application for a special permit is filed with the Zoning Board of Appeals, the Zoning Board of Appeals shall submit a copy of such application to the Community Planning Commission and the Building Inspector for their review. The application shall be accompanied by all supportive materials filed with the application which may be necessary to an adequate review by each of the reviewing parties. The Zoning Board of Appeals shall also submit copies of the application and supportive materials to all other boards, departments or officers of the Town whose area of responsibility relates to the subject matter of the special permit for which application is being made. Failure of any reviewing party to make recommendations within thirty-five (35) days of receipt by the reviewing party of a copy of the application for special permit shall be deemed a lack of opposition to such application.
 - (4) The special permit granting authority shall not render a decision on the application for a special permit until such time as the reviewing parties have all responded to the application or until thirty-five (35) days have elapsed from the receipt by each of the boards, departments or officers of the application and supportive materials.
 - (5) The special permit granting authority shall act within ninety (90) days after the public hearing. Failure of the special permit granting authority to take final action upon an application for a special permit within the ninety-day period following the date of the public hearing shall be deemed to be a grant of the permit applied for.
 - (6) Upon the grant of a special permit, or any extension, modification or renewal thereof, the special permit granting authority shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the special permit granting authority, containing the name and address of the owner, identifying the land affected, setting forth

compliance with the statutory requirements for the issuance of a special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Community Planning Commission and the Town Clerk.

D. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]** Minimum site plan requirements. Site Plans shall be submitted on twenty-four-inch by thirty-six-inch sheets. Plans shall be prepared by a registered professional engineer and a registered land surveyor. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. Except for plans relating to planned unit developments, cluster developments, and floodplain districts, which shall have a minimum scale of one (1) inch equals forty (40) feet, all plans shall have a minimum scale of one (1) inch equals two hundred (200) feet. Unless waived or modified by the special permit granting authority, all plans shall indicate at least the following items:

- (1) A location plan at a scale of one (1) inch equals one thousand (1,000) feet;
- (2) All property lines;
- (3) All adjacent public streets;
- (4) All existing and proposed buildings, structures, parking areas and service areas;
- (5) All facilities for sewage, refuse and other waste disposal;
- (6) Facilities for surface water drainage, both temporary and permanent;
- (7) Landscaping, walls, screening, fencing, buffering and walks;
- (8) Off-street parking spaces and loading areas;
- (9) Front, side and rear yards;
- (10) Lateral support for all adjacent properties as required;
- (11) Water supply;
- (12) Lighting plan;
- (13) Proper provision for vehicular traffic, service roads and control of entrances and exits to highways;
- (14) Future expansion areas;
- (15) Endorsement of approval by Board of Health on all matters relative to facilities for sewage, refuse and other waste disposal; and
- (16) All other features required by the section of this Zoning Bylaw authorizing the grant of the special permit sought.

- (17) **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]** For a Chapter 43D Priority Development Site, the site plan submission requirements shall be in accordance with this section and the Community Planning Commission's rules and regulations.
- E. Conditions for approval of special permit.
- (1) The special permit granting authority shall not approve any such application for a special permit unless it finds that all the following conditions are met:
- (a) The subject land is located in a district where the use requested is permitted by special permit as a special exception pursuant to the provisions of this Zoning Bylaw;
 - (b) The specific site is an appropriate location for such a use, structure or condition;
 - (c) The requested use will not create undue traffic congestion or unduly impair pedestrian safety;
 - (d) The requested use will not overload any public water, drainage, or sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare, directly caused by the requested use, and non-preventable by any condition of approving the special permit;
 - (e) There will be compliance with any special regulations for the use set forth in Articles IX, X, XI, XIV, XV and XVII;
 - (f) The requested use will not impair the integrity or character of the district, neighborhood or adjoining districts nor be detrimental to the public health, safety, convenience or welfare.
- (2) Special permits may be granted only for uses which are in harmony with the general purpose and intent of this Zoning Bylaw and shall be subject to general or specific provisions as set forth therein. In order to further the objectives of this Zoning Bylaw, such permits may impose conditions, safeguards and limitations on time or use and may also impose such other conditions, safeguards and limitations as the special permit granting authority shall deem appropriate including but not limited to the following:
- (a) Requirements of front, side or rear yards greater than the minimum required by this Zoning Bylaw;
 - (b) Requirements of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, plantings or other devices as specified by the special permit granting authority;
 - (c) Modification of the exterior features or appearances of the structure;

- (d) Limitation of size, number of occupants, method or time of operation, or extent of facilities;
 - (e) Regulation of number, design and location of access drives or other traffic features;
 - (f) Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaw; and
 - (g) Provision for open and maintained fire and access lanes.
- F. Recording of decision. No special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have lapsed and no appeal has been filed or that, if an appeal has been filed, it has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The recording or registration shall be the responsibility of the owner or applicant who shall, thereafter, provide the special permit granting authority with a copy of the decision bearing the stamp of the Registry of Deeds or Land Court indicating the date and time of recording or registration and the book and page number assigned the document.
- G. Conformity with terms of special permit required. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the special permit granting authority in authorizing a special permit without making new application to the special permit granting authority for approval of such action.
- H. Application of amendments to Zoning Bylaw. Any amendment to this Zoning Bylaw shall apply to any special permit issued after the first notice of public hearing on such amendment.
- I. Special permit time limit. Except for good cause, a special permit granted pursuant to this Zoning Bylaw shall lapse at the expiration of one (1) year from the grant thereof unless a substantial use has commenced or construction has begun.

ARTICLE VII
Establishment of Districts

§ 200-29. Designation of districts.

- A. **[Amended 10-1-1984 OTM by Art. 12, approved 1-11-1985; 10-4-1984 OTM by Art. 14, approved 1-8-1985; 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992; 10-5-1995 OTM by Art. 35, approved 11-22-1995; Amended 4-7-2008 ATM by Art. 26, approved 6-27-2008]** The Town of North Reading is hereby divided into fourteen (14) zoning districts to be designated as follows:

	Full Name and Class	Short Name
Residence	Residence A District	RA
	Residence R District	RR
	Residence B District	RB
	Residence C District	RC
	Residence D District	RD
	Residence E District	RE
	Residence M District	RM
Business	Local Business District	LB
	General Business District	GB
	Highway Business District	HB
Industrial	Industrial A District	IA
	Industrial B District	IB
	Industrial C District	IC
	Industrial/Office District	I/O-1

Any of the above-named districts may also be designated as Floodplain District.

- B. Residential districts, as a group, are herein referred to as "R" districts. Business districts, as a group, are herein referred to as "B" districts. Industrial districts, as a group, are herein referred to as "I" districts. The general purpose of the districts and areas are as follows:
- (1) Residence districts are so designated to provide satisfactory areas for persons to reside, away from the unhealthy aspects of commercial development. For the purposes of this Bylaw, any property placed within the Affordable Housing Overlay District shall be deemed to be in a Residence District regardless of the underlying zoning. The districts in this category provide for a variety of population densities;
 - (2) Business districts are so designated to provide for adequate areas for establishments which provide goods and services for the public convenience and welfare;
 - (3) Industrial districts are so designated to provide for adequate areas for establishments for research, fabrication, assembly, and distribution of goods; and for extraction of raw materials; and

- (4) The Floodplain District is so designated to provide protection for persons and property both at the site and elsewhere within the same watershed. If indiscriminate changes in the surface of the earth are permitted, the attendant risks to the public health and safety are obvious. If areas of land which are now, or have been since the era of the last glacier, natural basins to collect and hold surface water and flood tides are to be changed without careful engineering studies, it could, and in all probability would, result in a transfer of the water which was formerly retained into or onto other areas. (See § 200-44.) **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

§ 200-30. Zoning Map.²

- A. The district boundaries shall be as shown on the Zoning Map of the Town of North Reading dated May 8, 1973, as amended at the October 1974 and October 1977 Town Meetings (see also § 200-44B) and as hereinafter may be amended. (The current revision date is October 10, 2002.) **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-1-1984 OTM by Art. 12, approved 1-11-1985; 10-2-2000 OTM by Art. 16, approved 3-29-2001; 04-07-2003 ATM by Art. 10, approved 04-25-2003]**
- B. Any change in the location of boundaries of a district hereafter made through amendments of this Zoning Bylaw shall be indicated by the alteration of such map, and the map thus altered is declared to be part of the Zoning Bylaw thus amended.

§ 200-31. Interpretation of district boundaries. [Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]

- A. Where the boundary lines are shown upon said map within the right-of-way lines of public and private ways, the center lines of such way shall be the boundary lines.
- B. Boundary lines located outside of such side lines of public or private ways and shown approximately parallel thereto shall be regarded as parallel to such side lines, and dimensions shown in figures placed upon said map between such boundary lines and side lines of public and private ways are the distance in feet of such boundary lines from such side lines, such distance being measured at right angles to such side lines unless otherwise indicated.
- C. Where the boundary lines shown are approximately on the location of property or lot lines, and the exact location of the district or area boundary lines are not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.

²

Editor's Note: The Zoning Map is on file in the Town Clerk's office and Community Planning Office.

- D. In all cases which are not covered by other provisions of this article, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of the map.
- E. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion(s) of such lot may apply for not more than thirty (30) feet into the more restricted portion, provided the lot has frontage in the less restricted district and such frontage is sufficient to meet the dimensional requirements of that district.

ARTICLE VIII Use Regulations

§ 200-32. Applicability.

Except as otherwise provided in this Zoning Bylaw, no building, structure or land shall be used for a purpose other than one permitted in the district as prescribed in this article. Any use not permitted by this article shall be construed to be prohibited.

§ 200-33. Permitted uses. [Amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]

In the following Table of Principal Use Regulations, the uses permitted by right in the district shall be designated by the letter "P." Those uses that may be permitted as an exception by special permit in the district, in accordance with Article VI, shall be designated by the letter "S." Uses designated "-" shall not be permitted in the district. Areas in a Floodplain District are also subject to the use regulations of the districts which it overlies and to the special provisions and conditions of § 200-44.

§ 200-34. Buildings in floodway. [Amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]

No building shall be erected in the Floodplain District nor shall any use of land occur in the Floodplain District except in conformance with § 200-44 of this Zoning Bylaw.

§ 200-35. Table of Principal Use Regulations. [Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 4-23-1979 ATM by Art. 22, approved 5-18-1979; 10-23-1980 OTM by Art. 21, approved 2-5-1981; 10-6-1983 OTM by Art. 9, approved 12-7-1983; 4-9-1984 ATM by Art. 24, approved 6-15-1984; 4-12-1984 ATM by Art. 25, approved 6-15-1984; 10-1-1984 OTM by Art. 9, approved 1-11-1985; 10-4-1984 OTM by Art. 14, approved 1-8-1985; 10-8-1987 OTM by Art. 19, approved 12-3-1987; 1-19-1988 STM by Art. 6, approved 2-2-1988; 10-17-1991 OTM by Art. 22, approved 2-4-1992; Amended 4-7-2008 ATM by Art. 27, approved 6-27-2008]

(See § 200-33 for explanation of "P," "S" and "-")

	Residence			Business			Industrial				
	RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
1. One-family detached dwelling	P	P	P	P	P	-	P	-	-	-	-

		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
2.	Multi-family dwelling containing four (4) or more dwelling units	-	-	-	-	-	S	-	-	-	-	-
3.	Apartments containing three (3) or fewer independent dwelling units, owned and operated by the North Reading Housing Authority (see ~ 200-89)	S	S	S	S	S	-	-	-	-	-	-
4.	Open Space Residential Development (see Article X)	S	S	-	-	S	-	-	-	-	-	-
5.	Planned unit development (See Article XI)	-	-	-	S	-	S	S	-	-	-	-
6.	Lodging house, but excluding motels, trailers, or mobile homes	-	-	-	-	-	-	S	S	-	-	-
7.	Motels	-	-	-	-	-	-	-	-	S	-	-
8.	Mobile home	-	-	-	-	-	-	-	-	-	-	-
9.	Mobile home park	-	-	-	-	-	-	-	-	-	-	-
10.	Place of divine worship	P	P	P	P	P	-	S	S	P	P	P
11.	Educational purpose which is religious, sectarian, denominational or public	S	S	S	S	S	-	S	S	P	P	P
12.	Educational use which is not religious, sectarian, denominational or public	-	-	-	-	-	-	S	S	P	P	P

		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
13.	Non-profit private club, civic or fraternal organization provided any sleeping rooms shall not number more than four (4)	S	S	S	S	-	-	S	S	-	-	-
14.	Country club	S	S	S	S	-	-	-	-	-	-	-
15.	Non-profit day camp or other non-profit camp	S	S	S	S	-	-	S	-	-	-	-
16.	Cemetery, including any crematory therein	S	S	S	S	-	-	S	S	-	-	-
17.	Town or non-profit outdoor recreational facility	S	S	S	S	S	-	S	S	S	S	S
18.	Municipal facility golf course	S	-	-	-	-	-	-	-	-	-	-
19.	Municipal facility indoor and/or outdoor recreation	S	-	-	-	-	-	-	-	-	-	-
20.	Hospital, nursing home, sanitarium, or medical center	-	-	-	-	-	-	S	S	-	-	-
21.	Essential services	P	P	P	P	P	-	P	P	P	P	P

Community Facilities

22.	Utility transmission line, substation or similar facility or building	S	S	S	S	S	-	S	S	S	S	S
23.	Government use	S	S	S	S	-	-	S	S	S	S	S
24.	Place of indoor amusement, recreation or assembly	-	-	-	-	-	-	S	S	S	S	S

		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
25.	Outdoor commercial recreation or amusement facility	-	-	-	-	-	-	-	S	-	-	-
26.	Inland marina	S	S	S	S	-	-	S	S	S	S	S
27.	Any woodland, grassland or wetland use of land or water	P	P	P	P	P	-	P	P	P	P	P
28.	Farm, including agriculture, horticulture and floriculture, subject to restriction that any dwelling house be a one-family detached dwelling	P	P	P	P	P	-	P	P	P	P	P
29.	Year-round greenhouse or stand for wholesale or retail sale of agricultural or farm products	-	-	-	-	-	-	S	S	P	P	P
30.	Temporary [not to exceed use for a period of six (6) months in any one (1) year] greenhouse or stand for sale of agricultural or farm products raised primarily on the same premises	S	S	S	S	S	-	S	S	P	P	P
31.	Raising and keeping of livestock, horses and poultry, and only in connection with operation of a farm	S	S	S	S	S	-	S	S	S	S	S
32.	The raising of swine or furbearing animals for commercial use	-	-	-	-	-	-	-	-	-	-	-

Retail, Service and Commercial

40.	Establishment for retail sale of commodities except motor vehicles	-	-	-	-	-	-	S	S	-	-	-
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		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
41.	Eating and drinking places where consumption is primarily intended to be within the building	-	-	-	-	-	-	S	S	S	S	S
42.	Drive-in eating and drinking establishment	-	-	-	-	-	-	S	S	S	S	S
43.	Mortuary, undertaking or funeral establishment	-	-	-	-	-	-	S	S	-	-	-
44.	Motor vehicle, machinery or other junkyard	-	-	-	-	-	-	-	-	-	-	-
45.	Establishment selling automobiles, trucks, aircraft, boats, motorcycles, trailers and other vehicles and their accessories (excluding used car lot)	-	-	-	-	-	-	-	S	-	-	-
46.	Personal and consumer service establishment (excluding massage establishment)	-	-	-	-	-	-	S	S	-	-	-
47.	Communications/personal wireless service facilities [Amended 10-12-2000 OTM by Art. 32, approved 3-29-2001]	S	S	S	S	S	S	S	S	S	S	S
48.	Broadcasting studio	-	-	-	-	-	-	S	S	S	S	S
49.	Membership club operated for profit (not a country club)	-	-	-	-	-	-	S	S	-	-	-
50.	Miscellaneous professional and business offices and services including, but not limited to, medical, legal and other professional services and finance, insurance and real estate offices	-	-	-	-	-	-	S	S	P	P	P

		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
51.	Automotive repair, automobile service station, self-service gasoline service station or garage (excluding a junkyard or open storage of abandoned automobiles or other vehicles) (see also § 200-43)	-	-	-	-	-	-	S	S	-	-	-
52.	Truck terminal or motor freight station	-	-	-	-	-	-	-	-	-	-	-
53.	Commercial kennel or veterinary hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures	-	-	-	-	-	-	S	S	-	-	-
54.	Massage establishment	-	-	-	-	-	-	-	-	-	-	-
55.	Used car lot	-	-	-	-	-	-	-	-	-	-	-

Wholesale, Transportation
and Industrial

60.	Removal of sand, earth, gravel, or other raw material (see § 200-41 and 200-87)	-	-	-	-	-	-	-	-	S	S	S
61.	Processing and treating of raw materials including operations such as grading, drying, sorting, crushing grinding and milling (see § 200-41 and 200-87)	-	-	-	-	-	-	-	-	S	S	S
62.	Construction industry including suppliers	-	-	-	-	-	-	-	S	S	S	S
63.	Manufacturing (See § 200-87)	-	-	-	-	-	-	-	-	S	S	S

		Residence			Business			Industrial				
		RA	RR	RB	RD	RE	RM	LB	GB	IA	IB	IC
64.	Plant for packaging food products	-	-	-	-	-	-	-	-	S	S	S
65.	Wholesale sale of commodities	-	-	-	-	-	-	-	S	P	P	P
66.	Storage warehouse	-	-	-	-	-	-	-	-	P	P	P
67.	Open storage of raw materials and finished goods	-	-	-	-	-	-	-	-	P	P	P
68.	Open storage, or daytime or overnight parking of construction equipment	-	-	-	-	-	-	-	-	-	-	-
69.	Printing or publishing establishment	-	-	-	-	-	-	-	S	P	P	P
70.	Research offices or establishments devoted to research and development activities	-	-	-	-	-	-	-	S	S	S	S
71.	Light manufacturing	-	-	-	-	-	-	-	S	S	S	S
72.	Transportation services (excluding truck terminal or motor freight station)	-	-	-	-	-	-	-	-	S	S	S

Highway Business (HB): see § 200-39 of this Zoning Bylaw.

Industrial/Office (I/O-1): See § 200-40 of this Zoning Bylaw. **[Added 10-5-1995 OTM by Art. 35, approved 11-22-1995]**

§ 200-36. Accessory uses. [Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]

- A. Uses accessory to the principal use are permitted in all districts subject to all the following restrictions:
- (1) An accessory use must be customarily incidental and subordinate to the principal use;
 - (2) If a lot is in two (2) or more districts, the accessory use must be confined to that part of the lot where the principal use is allowable;
 - (3) No accessory use of a lot is permitted unless a principal use is conducted thereon;

- (4) If the accessory use is neither permitted as a principal use nor allowed by special permit, the accessory use shall not be conducted for profit independent of the principal use;
- (5) Walls, fences or similar enclosures shall not interfere with the safe operation of motor vehicles; and in a residence district, they shall not be more than seven (7) feet in height unless used as a retaining wall;
- (6) Outside storage is permitted only if clearly necessary to the operation and conduct of the principal use;
- (7) Except where the principal use is for a farm, the storage or regular daytime or overnight parking of more than one (1) commercial motor vehicle is not permitted in any residence district, and such vehicle shall not be more than one-ton rated in size;
- (8) Storage of vehicles or boats in any residence district shall be within a building or not less than ten (10) feet from any boundary line of the lot; and
- (9) A trailer shall not be used for dwelling or sleeping purposes except in accordance with § 200-88.

B. The following accessory uses are permitted only as an exception by special permit in accordance with Article VI:

- (1) Home occupations (see § 200-42);
- (2) The outside storage of vehicles or boats in any residence district less than ten (10) feet away from any boundary line of the lot;
- (3) The keeping and housing of horses, livestock or fowls as defined in Massachusetts General Laws, Chapter 140, Section 136A, if authorized by the Board of Health;
- (4) Accessory retail or consumer service use in a multi-family dwelling and provided that all activities are located on the first floor or basement floor levels and all materials, goods and activities in connection with said uses shall be confined completely within the building;
- (5) Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not the accessory use is on the same parcel as the activity permitted as a matter of right, provided that the Zoning Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good;
- (6) The storage of commercial motor vehicles in a residence district not otherwise permitted in this article;
- (7) Any use accessory to a principal use permitted only as an exception by special permit shall be permitted only if provided by special permit; and

- (8) If a lot is located partially within a Floodplain District and partially without, accessory uses on that part of the lot which is within may be permitted as an exception, subject to the restrictions of § 200-44. **[Amended 10-8-1987 OTM by Art. 21, approved 11-30-1987; 4-30-1992 ATM by Art. 22, approved 8-26-1992]**

§ 200-37. Limitation on grant of permits.

No permit granting authority, special permit granting authority or other licensing authority shall grant a permit or license for a use of a building, structure or land which use would be in violation of this Zoning Bylaw.

§ 200-38. Aquifer Protection District. [Added 10-1-1984 OTM by Art. 12, approved 1-11-1985; amended 4-9-1987 STM by Art. 1, approved 8-24-1987; 10-8-1987 OTM by Art. 20, approved 11-27-1987; 10-5-1989 OTM by Art. 18, approved 1-8-1990; 10-5-1995 OTM by Art. 34, approved 11-22-1995]

- A. Purpose. The purpose of the Aquifer Protection District is to protect the public health by preventing contamination of groundwater resources providing public water supply.
- B. Definitions pertaining to an Aquifer Protection District.
- (1) Aquifer Protection District Map: The Aquifer Protection District Map dated September 29, 1995, drawn by Applied Geographics, Inc.
- (2) Special permit granting authority: The special permit granting authority shall be the Zoning Board of Appeals (SPGA).
- (3) Aquifer Protection District Zones I, II and III: Aquifer Protection District Zones I, II and III are as defined by the Massachusetts Department of Environmental Protection in 310 CMR 22.00.
- C. Establishment of districts.
- (1) Overlay districts. The Aquifer Protection District is herein established as an overlay district. The Aquifer Protection District includes the Town of North Reading well fields and surrounding drainage basins. The Aquifer Protection District is described on the Aquifer Protection District Map. The Aquifer Protection District Map is hereby made a part of this Zoning Bylaw and is on file in the office of the Town Clerk.
- (2) Boundary disputes. Where the bounds of the Aquifer Protection District are in dispute, as delineated on the Aquifer Protection District Map, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. Resolution of boundary disputes shall be through a special permit application to the Zoning Board of Appeals. Any application for a special permit under this Subsection C shall be accompanied by documentation prepared by a person who meets the following two requirements:

- (a) Is experienced in delineating hydrogeologic zones in Massachusetts; and
- (b) Has one of the following credentials:

Title	Conferring Entity
Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts
Certified Ground Water Professional	Association of Ground Water Scientists & Engineers
Certified Professional Soil Scientist	American Registry of Certified Professionals in Agronomy, Crops and Soils Ltd.

- (3) The Zoning Board of Appeals shall not grant a special permit under this Subsection C unless the applicant demonstrates that the provisions governing the Aquifer Protection District(s), under this § 200-38, may be waived without detrimental effect to groundwater quality as specified in Subsection F. Whenever an application for a special permit is filed with the Zoning Board of Appeals under this Subsection C, the Zoning Board of Appeals and the applicant shall fulfill the requirements of Subsection E(2) herein.

D. Use regulations.

- (1) Permitted and prohibited uses. Within an Aquifer Protection District the requirements of the underlying districts continue to apply except that uses are prohibited where indicated by "-" in the following schedule, and require a special permit where indicated by "S," even where the underlying district requirements are more permissive. Uses permitted in an Aquifer Protection District are subject to the prohibitions set forth in the following schedule as well as to the design criteria set forth in Subsections F and G and are indicated by "P."
- (2) Lots partially within the Aquifer Protection District. Where a portion of the lot is located partially within and partially without the Aquifer Protection District, site design shall, to the extent feasible, locate potential pollution sources outside the district boundaries.

Use Regulations Schedule

		Aquifer Protection District
1.	Landfills and open dumps, as defined in 310 CMR 19.006.	-
2.	Landfilling of sludge and septage, as defined in 310 CMR 32.05.	-
3.	Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1.	
4.	Stockpiling and disposal of snow or ice removed from highways and streets located outside of the district, that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.	-
5.	Treatment or disposal works for non-sanitary wastewaters that are subject to 314 CMR 5.00, except the following:	-
a.	The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and	P
b.	Treatment works approved by DEP designed for the treatment of contaminated ground or surface waters.	
6.	Facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.000, except for the following:	
a.	Very small quantity generators, as defined by 310 CMR 30.00;	P
b.	Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;	P

- | | | |
|----|--|---|
| c. | Waste oil retention facilities required by MGL c. 21, ~ 52A; and | P |
| d. | Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for treatment of contaminated ground or surface waters. | P |
-
7. Storage of sludge and septage, as defined in 310 CMR 32.05. Such storage must be in compliance with 310 CMR 32.30 and 310 CMR 32.31.
 8. Storage of sodium chloride, chemically treated abrasives or other chemicals for the removal of ice and snow on roads. Such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate. S
 9. Storage of commercial fertilizers, as defined in MGL c. 128, ~ 64. Such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate. S
 10. Storage of animal manures. Such storage must be covered or contained in accordance with the specifications of the United States Soil Conservation Service. S
 11. Storage of liquid hazardous materials, as defined in MGL c. 21E. Such storage must be either in a freestanding³ container, approved by the North Reading Fire Department and within a building or in a freestanding covered container, approved by the North Reading Fire Department, which is above ground level with protection adequate to contain a spill 110% the size of the container's total storage capacity. S

³Editor's Note: Throughout this chapter, each instance of the word "free-standing" was amended to "freestanding" 10-2-2000 ATM by Art. 16, approved 3-29-2001.

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|-----|---|---|
| 12. | The removal of soil, loam, sand, gravel, or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey). The substances removed must be redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical highwater mark. (Excavations for the construction of building foundations or the installations of utility works are permitted). | S |
| 13. | Storage of liquid petroleum products of any kind. (Replacement of pre-existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements.) | - |
| | <p>However, storage of liquid petroleum products incidental to the following uses is permitted, provided that such storage must be either in a freestanding container approved by the North Reading Fire Department and within a building or in a freestanding container approved by the North Reading Fire Department which is above ground level with protection adequate to contain a spill 110% the size of the container's total storage capacity.</p> | |
| a. | Normal household use and outdoor maintenance or the heating of the structure; | P |
| b. | Waste oil retention facilities required by MGL c. 21, § 52A; | P |
| c. | Emergency generators required by statute, rule or regulation; or | P |
| d. | Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters. | P |

14. Land uses that result in the rendering S
impervious of more than 15% or 2,500 square
feet of any lot, whichever is greater. A
system for artificial recharge of
precipitation must be provided that will
not result in the degradation of groundwater
quality.

E. Special permit granting authority.

- (1) Establishment. A special permit shall be granted if the SPGA determines that the intent of this section including the specific criteria of Subsection G are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measure failed.
- (2) Application.
- (a) Whenever an application for a special permit is filed with the SPGA under this § 200-38, the SPGA shall transmit within six (6) working days of the filing of the completed application, copies of the application, accompanying site plan, and all other documentation submitted with the application to the Community Planning Commission, Board of Health, Conservation Commission, Building Inspector, Fire Chief and the Town Engineer for their consideration, review and report. The reports shall contain the proposed conditions which the officials or boards may determine to be appropriate if the special permit is to be granted and shall include a draft of the specific language of the conditions. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of all required information and documentation have been filed with the SPGA.
- (b) The SPGA may notify applicants by registered mail, within fourteen (14) days of submittal of the application, that the application or documentation is incomplete, specifying the deficiencies, and the applicant shall have fourteen (14) days from the date of the mailing of such notice to correct the deficiencies. Failure to correct the deficiencies after having been so notified within such time shall be used as the basis for denial of the application without prejudice.
- (c) Reports shall be submitted by the date of the public hearing, but in any case within thirty-five (35) days of receipt by the reviewing party of all of the required materials, otherwise failure of any reviewing party to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.
- (d) In the event that the public hearing by the SPGA is held prior to the expiration of the thirty-five-day period, the SPGA shall continue the public hearing to permit the formal submission of reports and recommendations within the thirty-five-day period.

- (3) Applicability. Any special permit required under this § 200-38 shall be in addition to, and separate from, any other special permit required under § 200-28 of this Zoning Bylaw.
- F. Special permit criteria; standards. Special permits under Subsection E shall be granted only if the SPGA determines, after reviewing the recommendations of the reviewing parties delineated in Subsection E(2), that groundwater quality resulting from on-site wastewater disposal or other operations on-site shall not fall below the more restrictive of federal or state standards for drinking water or, if existing groundwater quality is already below those standards, on-site disposal or operations shall result in no further deterioration.
- G. Submittals.
- (1) Required information. In applying for a special permit under this section, the applicant shall furnish and the SPGA shall require the information listed in this subsection, unless waived or modified by the SPGA with reasons stated in writing to each of the reviewing parties identified in Subsection E(2) above, contemporaneous with the transmittal to the reviewing party of its copy of the application, site plan and other required documentation.
- (2) Site plans.
- (a) General requirements. Where called for in Subsection G(2)(a) through (d), site plans shall be submitted on twenty-four-inch by thirty-six-inch sheets, on a minimum scale of one (1) inch equals forty (40) feet, and prepared by a registered professional engineer and a registered land surveyor, and shall include, at a minimum, items in § 200-28D(1) through (16) of the North Reading Zoning Bylaws.
- (b) Impervious areas. For any proposed activity on a lot, other than a single-family dwelling and structures and uses accessory thereto, which will render more than fifteen (15) percent of the total lot area impervious, the application or site plan shall contain the items specified in this Subsection G(2) and also an addenda prepared by a registered professional engineer containing drainage calculations, utilizing U.S. Soil Conservation Service methodology, demonstrating that any increase in the volume of runoff shall be recharged on-site and diverted towards areas with vegetation for surface infiltration to the maximum extent possible. The application or site plan shall be accompanied by a narrative statement explaining the use of dry wells, which shall be allowed only upon a showing that other methods are infeasible, and that dry wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.
- (c) Maintenance of vegetative cover. For any use, other than a single-family dwelling and structures and uses accessory thereto, retaining less than twenty (20) percent of lot area in its natural vegetative state, the application or site plan shall contain the items specified in this Subsection G(2) and also contain a narrative statement by a registered professional engineer certifying that such removal of vegetative cover will likely not result in decreased recharge of the groundwater aquifer, or increased sedimentation of surface waters. The application or site plan shall indicate any restoration proposals or erosion control measures proposed on the premises.

- (d) Disposal of snow/earth removal. For disposal of snow from outside the district; removal of earth, loam, sand, gravel or any other mineral in excess of ten (10) yards and/or grading resulting in creation of exterior grades less than five (5) feet above maximum groundwater elevation, the application or site plan shall contain the items specified in this Subsection G(2) and a narrative statement prepared by a registered professional engineer assessing the impacts, if any, of the proposed activity on groundwater and surface water quality on the premises, adjacent to the premises and on any well field(s) of the Town of North Reading, or the well field(s) of any town adjoining the Town of North Reading, downgradient from the proposed activity or use.
- (3) Hazardous materials and wastes.
 - (a) Disclosure of hazardous material storage. A complete list of all chemicals, pesticides, fuels or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use.
 - (b) Description of hazardous wastes. A description of all potentially hazardous wastes to be generated in quantities greater than associated with normal household use.
 - (c) Protective measures. A description of the measures proposed to protect all storage containers from vandalism, corrosion and leakage and to provide for control of spills.
 - (d) Certification of adequacy of protective measures. An emergency preparedness plan shall be designed for aboveground storage of hazardous materials or waste, along with certification by a registered professional engineer that such storage facilities or containers are:
 - [1] In compliance with all applicable federal or state regulations; and
 - [2] In compliance with design specifications prepared by a registered professional engineer; and
 - [3] Approved by the North Reading Fire Department.
- H. Decision. The decision of the SPGA shall approve, approve with conditions or deny the application. It shall contain an explanation of any departure from the recommendations or proposed conditions of any reviewing party. The decision shall:
 - (1) Describe in detail those aspects of the application disapproved or approved with deletions or modifications;
 - (2) Set out in detail, and expressed as condition of approval, the action of the SPGA as to information submitted pursuant to Subsection G(2)(a) through (d) and (3).

- I. Nonconforming structures and uses. The provisions of Subsections E, F, G and H above, as applicable, shall govern the application for and grant of a special permit required by § 200-10A and 200-28A(3) of this Zoning Bylaw relating to the nonconforming nature of structures or uses to the extent such nonconformance is the result of the application of this § 200-38. It is the intention of this Subsection I relative to such structures and uses that this § 200-38 be construed against the perpetuation, extension, increase or change of nonconforming uses and structures.

§ 200-39. Highway Business (HB) District. [Added 10-17-1991 OTM by Art. 22, approved 2-4-1992]

A. Purpose and general regulations.

(1) Purpose.

- (a) The Highway Business District (HB) is designed to provide for business involved in retailing, services and amusement and recreation activities. These facilities range in degree of intensity from neighborhood services to regional commercial centers.
- (b) The HB District is intended to encourage unique design and site planning solutions for intensive or mixed uses, and to require quality site design which incorporates desirable amenities as an integral part of each development.

(2) General regulations.

- (a) All proposed retail, service, commercial, wholesale, transportation and industrial developments, redevelopments or expansions within the HB District shall be subject to site plan review pursuant to Article XVII. **[Amended 10-8-1998 OTM by Art. 19, approved 1-27-1999]**
- (b) A combination of two (2) or more permitted uses shall be permitted to occupy the same lot under circumstances specifically approved by the Community Planning Commission through site plan review or as approved through the relevant special permit.
- (c) Permitted uses shall include accessory uses and buildings which are customarily incidental to, and located on the same lot as, the permitted principal use.
- (d) No space needed to meet the frontage, yard, area, coverage, parking or other requirements of this Zoning Bylaw for a lot or building may be sold or leased away from such lot or building.
- (e) No parcel of land which has less than the minimum frontage and area requirements for the HB District may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
- (f) The maximum permissible floor area ratio (FAR) for any lot in the HB District shall be 2.0 unless otherwise provided for in Subsection B below.
- (g) All uses shall comply with the following additional restrictions:

- [1] All uses are restricted to closed buildings, except for driveup windows where specifically approved.
- [2] Outdoor storage of materials and supplies is prohibited unless specifically approved.

B. Supplemental regulations.

(1) Parking bonus. The permissible floor area ratio (FAR) may be increased to 3.5 for any lot within the HB District on which surplus off-street parking spaces are provided in excess of twenty (20) percent of the number of spaces normally required under Article XIII of this Zoning Bylaw, the use of which spaces by the general public is guaranteed through recordable easements, covenants or other restrictions running to the benefit of the Town.

(2) Bulk and coverage controls. The bulk and coverage controls for the HB District are as follows:

- a. Minimum lot area = 20,000
- b. Minimum frontage = 125 feet
- c. Floor area ratio = 2.0 *
- d. Setbacks = 25 feet front **
= 20 feet side and rear
- e. Maximum stories = 4 ***
- f. Maximum height = 60 feet ***
- g. Maximum building area = 70%

* FAR may be increased per Subsection B(1) of this section.

** No pavement, other than pedestrian or vehicular accessways shown on an approved site plan, shall be located within the minimum front setback.

*** Parking garages and similar structures which are an integral part of a structure and intended for use by the general public, as well as occupants of said structure, shall not be considered in these calculations up to a maximum of one and one-half (1.5) stories.

C. **[Amended 4-30-1992 ATM by Art. 23, approved 8-26-1992; 4-6-2000 ATM by Art. 26, approved 6-28-2000]** Prohibited uses. No use classification as listed in the 1997 North American Industry Classification System is permitted in the HB District which is not listed in Subsection D or E below. In addition, the following uses are expressly prohibited in the HB District:

453930	-	Mobile home dealers
445210	-	Butchering of live animals
445210	-	Slaughter of live animals
441120	-	Used car dealers
451211	-	Adult book stores
531110	-	Operators of apartment buildings
531110	-	Operators of dwellings other than apartment buildings
531190	-	Operators of residential mobile home sites
721211	-	Camps and recreational vehicle parks
721110	-	Organization hotels and lodging houses on membership basis
812199	-	Massage parlors, tattoo parlors, turkish baths, topless-bottomless-nude dancing, buyer's clubs, comfort stations, porter services, steambaths
812990	-	Escort service
541850	-	Billboard advertising
532412	-	Heavy construction equipment rental and leasing
532411	-	Airplane rental and leasing
213111	-	Oil field equipment rental and leasing
213112	-	Oil well drilling equipment rental and leasing
56299	-	Toilets, portable rental and leasing
493110	-	Field warehousing; exhibits, building of; salvaging of damaged merchandise
561491	-	Automobile repossession services
561910	-	Textile folding and packaging services
711212	-	Racetracks
713290	-	Gambling establishments primarily operating coin-operated machines; gambling machines, coin-operated; slot machines
713990	-	Gun clubs; shooting clubs
488119	-	Flying fields
713290	-	Bookies; bookmakers; gambling establishments, not primarily operating coin-operated machines; gambling machines except, coin-operated
713990	-	Trapshooting facilities
812199	-	Bath houses
561210	-	Correctional facilities, jails
81411	-	Private households
541620	-	Cloud seeding; weather modification (rain makers)

D. **[Amended 4-30-1992 ATM by Art. 24, approved 8-26-1992; 10-8-1998 OTM by Art. 24, approved 1-27-1999; 10-4-1999 OTM by Art. 11, approved 12-14-1999; 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-12-2000 OTM by Art. 32, approved 3-29-2001]** Uses permitted by special permit. The following use classifications as listed in the 1997 North American Industry Classification System are permitted in the HB District only upon authorization of a special permit by the Zoning Board of Appeals pursuant to § 200-28 of the Zoning Bylaw:

541940	-	Veterinary services for animal specialties
812910	-	Animal specialty services, except veterinary
485991*	-	School buses (amended)
541690	-	Landscape and horticultural services
541320	-	Landscape and horticultural services
561730	-	Landscape and horticultural services
444110	-	Lumber and other building material dealers
444190	-	Lumber and other building material dealers
444110	-	New and used car dealers
4471	-	Gasoline service stations
44121	-	Recreational vehicle dealers
441221	-	Motorcycle dealers
441229	-	Automotive dealers, not elsewhere classified
722410	-	Drinking places (alcoholic beverages)
722330	-	Direct selling establishments
454390	-	Direct selling establishments
45431	-	Fuel dealers
522298	-	Pawnshops
453998	-	Auction rooms, sales barns
52239	-	Functions related to deposit banking, not elsewhere classified, check cashing agencies
7211	-	Hotels and motels
721310	-	Rooming and boarding houses
8123	-	Laundry, cleaning and garment service
81299	-	Tanning salons
541922	-	Commercial photography
5617	-	Services to buildings
56161	-	Dogs, rental of: for protective services
81292	-	Photo finishing labs
56199	-	Bronzing baby shoes; drive away automobile service; filling pressure containers; race track cleaning; liquidators of merchandise; solvents recovery service; repossession service
561990	-	Auctioneering service
561491	-	Automobile repossession service
5321	-	Automotive rentals, no drivers
81293	-	Automobile parking
8111	-	Automotive repair shops
811198	-	Automotive services, except repair
811412	-	Refrigeration and air conditioning service and repair shops
8113	-	Miscellaneous repair shops and related services
512132	-	Drive-in motion picture theaters
7112	-	Commercial sports
71312	-	Coin-operated amusement devices
71119	-	Amusement concessions; amusements rides; animal shows in circuses, fairs and carnivals; billiard parlors; carnival operation; circus companies
623	-	Nursing and personal care facilities

62151	-	Medical and dental laboratories
339116	-	Medical and dental laboratories
62221	-	Psychiatric hospitals
623	-	Residential care
7121	-	Arboreta and botanical or zoological gardens
813	-	Bars and restaurants owned and operated for members of organizations only
54171	-	Commercial physical and biological research
54138	-	Testing laboratories
54194	-	Testing laboratories

*Establishments primarily engaged in operating vehicles to transport special needs pupils to and from schools with some transportation of the elderly, provided that outside parking of motor vehicles on site shall be limited to 15 vehicles, all of which must be registered and none of which shall be larger than a Class B vehicle (fifteen-passenger van).

E. **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000]** Permitted uses. All uses listed in the 1997 North American Industry Classification System under the following major group headings unless otherwise listed in Subsection C or D above shall be permitted:

1. 44-45 Retail Trade

444	-	Building materials, hardware, garden supply, and mobile home dealers
452	-	General merchandise stores
445	-	Food stores
447	-	Automotive dealers and gasoline service stations
448	-	Apparel and accessory stores
337	-	Home furniture, furnishings and equipment stores
722	-	Eating and drinking places
44	-	Miscellaneous retail
45	-	Testing laboratories

2. 52 Finance and Insurance

521	-	Depository institutions
522	-	Non-depository credit institutions
523	-	Security and commodity brokers, dealers, exchanges and services
524	-	Insurance carriers
524	-	Insurance agents, brokers, and service
531	-	Real estate
525	-	Holding and other investment offices

3.

721	-	Hotels, rooming houses, camps, and other lodging places
812	-	Personal services
541	-	Business services

811	-	Miscellaneous repair services
512	-	Motion pictures
711	-	Amusement and recreation services
621	-	Health services
622	-	Health services
623	-	Health services
5411	-	Legal services
611	-	Educational services
624	-	Social services
712	-	Museums, art galleries, and botanical and zoological gardens
813	-	Membership organizations
541	-	Engineering, accounting, research, management, and related services
711	-	Services not elsewhere classified
512	-	Services not elsewhere classified
541	-	Services not elsewhere classified
512	-	Services not elsewhere classified

§ 200-40. Industrial/Office (I/O-1) District. [Added 10-5-1995 OTM by Art. 35, approved 11-22-1995]

A. Purpose and general regulations.

(1) Purpose.

- (a) The Industrial/Office District (I/O-1) is designed to provide for administrative and research industries, offices and limited light manufacturing and assembling of building materials, machinery and other commodities to provide opportunities for employment for surrounding residential areas and protection to underground water supplies.
- (b) The I/O District is intended to encourage medium-rise land development emphasizing service oriented or light manufacturing uses while maintaining green space and providing protection to the environment and underground aquifers.

(2) General regulations.

- (a) All proposed commercial, service, and industrial developments, redevelopments or expansions within the I/O District shall be subject to site plan review pursuant to Article XVII. **[Amended 10-8-1998 OTM by Art. 19, approved 1-27-1999]**
- (b) A combination of two (2) or more permitted uses shall be permitted to occupy the same lot under circumstances specifically approved by the Community Planning Commission through site plan review or as approved through the relevant special permit.
- (c) Permitted uses shall include accessory uses and buildings which are customarily incidental to, and located on the same lot as, the permitted principal use.

- (d) No space needed to meet the frontage, yard, area, coverage, parking or other requirements of this Zoning Bylaw for a lot or building may be sold or leased away from the ownership of such lot or building.
- (e) No parcel of land which has less than the minimum frontage and area requirements for the I/O District may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.
- (f) The maximum permissible floor area ratio (FAR) for any lot in the I/O District shall be 2.0 unless otherwise provided for in Subsection B below.
- (g) All uses shall comply with the following additional restrictions:
 - [1] All uses are restricted to closed buildings, except for drive-up windows where specifically approved by the CPC through site plan review.
 - [2] Outdoor storage of materials and supplies is prohibited unless specifically approved by the CPC through site plan review.

B. Supplemental regulations.

- (1) Parking bonus. The permissible floor area ratio (FAR) may be increased to 3.5 for any lot within the I/O District on which surplus off-street parking spaces are provided in excess of twenty (20) percent of the number of spaces normally required under Article XIII of this Zoning Bylaw, the use of which spaces by the general public is guaranteed through recordable easements, covenants or other restrictions running to the benefit of the Town.
- (2) Bulk and coverage controls. The bulk and coverage controls for the I/O District are as follows:
 - a. Minimum lot area = 40,000 square feet
 - b. Minimum frontage = 200 feet
 - c. Floor area ratio = 2.0 *
 - d. Setbacks = 40 feet front **
= 25 feet side
= 50 feet rear
 - e. Maximum stories (I/O-1) = 4 ***
 - f. Maximum height (I/O-1) = 50 feet ***
 - g. Maximum building area = 50%

* FAR may be increased per Subsection B(1) of this section.

** No pavement, other than pedestrian or vehicular accessways shown on an approved site plan, shall

be located within the minimum front setback.

*** Parking garages and similar structures which are an integral part of a structure and intended for use by the general public, as well as occupants of said structure, shall not be considered in these calculations up to a maximum of one and one-half (1.5) stories.

C. **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000]** Prohibited uses. No use classification as listed in the 1997 North American Industry Classification System is permitted in the I/O District which is not listed in Subsection D or E below. In addition, operations for the production of or conduct of the following uses is expressly prohibited in the I/O District:

44521	-	Slaughtering plants: except animals not for human consumption
44521	-	Poultry slaughtering and processing
44521	-	Slaughtering of animals except for human consumption
31611	-	Leather tanning and finishing
33299	-	Ordnance and accessories, except vehicles and guided missiles
339942	-	Pencil lead; pencils, except mechanical
31611	-	Pelts: scraping, currying, tanning, bleaching, dyeing
42152	-	Coal and other minerals and ores
4218	-	Machinery, equipment and supplies
42193	-	Scrap and waste materials
4225	-	Farm product raw materials
4543	-	Petroleum and petroleum products
4227	-	Petroleum and petroleum products
44422	-	Farm supplies
42291	-	Farm supplies
447	-	Automotive dealers and gasoline service stations
451211	-	Adult book stores
45431	-	Fuel dealers
52239	-	Check cashing agencies
531110	-	Operators of apartment buildings
531110	-	Operators of dwellings other than apartment buildings
531190	-	Operators of residential mobile home sites
531190	-	Brokers of manufactured homes, on site
53131	-	Condominium managers; cooperative apartment manager
81222	-	Cemetery subdividers and developers
541850	-	Billboard advertising
5617	-	Services to dwellings and other buildings
532412	-	Heavy construction equipment rental and leasing
532411	-	Airplane rental and leasing; oil field equipment rental and leasing; oil well drilling equipment renting and leasing
56161	-	Dogs, rental of: for protective service
81292	-	Photofinishing laboratories
493110	-	Automobile recovery service; automobile

		repossession service; automobile shows; driveaway automobile service; field warehousing; salvaging of damage merchandise, not engaged in sales; scrap steel cutting on a contract or fee basis; solvents recovery service on a contract or fee basis.
8113	-	Miscellaneous repair shops and related services
512132	-	Drive-in motion picture theaters
71395	-	Bowling centers
711	-	Commercial sports
713290	-	Gambling establishments primarily operating coin-operated machines; gambling machines, coin-operated
713990	-	Amusement parks
711	-	Membership sports and recreation clubs
71399	-	Aerial tramways; archery ranges; betting information service; boat rental; boats, party fishing; bookies; bookmakers; bowling instruction; canoe rental; day camps; fishing piers and lakes; gambling establishments; gambling machines; horse shows; houseboat rentals; moped rental; motorcycle rental; off track betting; rental of rowboats and canoes; rental of saddle horses; riding academies and schools; riding tables; rodeo animal rental; rodeos; scenic railroads for amusement; shooting galleries; shooting ranges; skeet shooting facilities; ski instruction; ski lifts, cable lifts and ski tows; trapshooting facilities; waterslides; wave pools
623	-	Residential care
813	-	Bars and restaurants owned and operated for members of organizations only
561210	-	Correctional facilities; jails
81411	-	Private households

- D. **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000; 10-12-2000 OTM by Art. 32, approved 3-29-2001]** Uses permitted by special permit. Operations for the production of or conduct of the following use classifications as listed in the 1997 North American Industry Classification System are permitted in the I/O District only upon authorization of a special permit by the Zoning Board of Appeals pursuant to § 200-28 of the Zoning Bylaw:

311711	-	Canned and cured fish and seafoods
311712	-	Prepared fresh and frozen fish and seafoods
313	-	Broadwoven fabric mills, wool (including dyeing and finishing)
313	-	Dyeing and finishing textiles, except wool fabrics and knit goods
31321	-	Miscellaneous textile goods
322231	-	Die-cut paper and paperboard and cardboard
322291	-	Sanitary paper products
322232	-	Envelopes
322233	-	Stationery, tablets, and related products
3222	-	Converted paper and paperboard products, not elsewhere classified
323122	-	Platemaking and related services
334	-	Computer and office equipment

333311	-	Refrigeration and service industry machinery
333312	-	Refrigeration and service industry machinery
336391	-	Refrigeration and service industry machinery
333415	-	Refrigeration and service industry machinery
333913	-	Refrigeration and service industry machinery
333319	-	Refrigeration and service industry machinery
325992	-	Photographic chemicals, packaged
339943	-	Dies, hand seal; printing dies, rubber
339944	-	Carbon paper and inked ribbons
339999	-	Tear gas devices and equipment; treating clock and watch dials with luminous material
42269	-	Chemicals and allied products
42295	-	Paints, varnishes and supplies
7211	-	Hotels and motels
71119	-	Amusement concessions; amusement rides; animal shows in circuses, fairs and carnivals; carnival operation; circus companies; concession operators, amusement devices and rides
62151	-	Medical and dental laboratories
339116	-	Medical and dental laboratories
54171	-	Commercial physical and biological research
54138	-	Testing laboratories
54194	-	Testing laboratories
235990	-	Antenna installation, except household type contractors
513322	-	Radio telephone communications
513310	-	Telephone communications, except radio telephones
513310	-	Telegraph and other message communications
513112	-	Radio and television broadcasting stations
513120	-	Television broadcasting stations
513210	-	Cable and other pay television services
513390	-	Communication services, not elsewhere classified

E. **[Amended 4-6-2000 ATM by Art. 26, approved 6-28-2000]** Permitted uses. Operations for the production of or conduct of all uses listed in the 1997 North American Industry Classification System under the following headings unless otherwise listed in Subsection C or D above shall be permitted in the I/O District:

1.

311	-	Food and kindred products
313	-	Textile mill products
315	-	Apparel and other finished products made from fabrics and similar materials
337	-	Furniture and fixtures
511	-	Printing, publishing and allied industries
323	-	Printing, publishing and allied industries
512	-	Printing, publishing and allied industries
316	-	Leather and leather products
332	-	Fabricated metal products, except machinery and

- 335 - transportation equipment
- 335 - Electronic and other electrical equipment and components, except computer equipment
- 333 - Measuring, analyzing, and controlling instruments;
- 334 - photographic, medical and optical goods; watches and
- 339 - clocks
- 339 - Miscellaneous manufacturing industries

2.

- 56151 - Travel agencies
- 56152 - Tour operators
- 513 - Communications

3.

- 421 - Wholesale trade - durable goods
- 441 - Wholesale trade - durable goods
- 442 - Wholesale trade - durable goods
- 453 - Wholesale trade - durable goods
- 446 - Wholesale trade - durable goods
- 422 - Wholesale trade - nondurable goods

4.

All uses or combinations of uses within this division (G) must occupy a minimum 50,000 square feet of building space. No shopping centers or malls with less than said 50,000 square feet are permitted in the I/O District.

- 444 - Building materials, hardware, garden supply, and mobile home dealers
- 452 - General merchandise stores
- 445 - Food stores
- 448 - Apparel and accessory stores
- 337 - Home furniture, furnishings, and equipment stores
- 722 - Eating and drinking places
- 44 - Miscellaneous retail
- 45 - Miscellaneous retail

5.

- 521 - Depository institutions
- 522 - Nondepository institutions
- 523 - Security and commodity brokers, dealers, exchanges, and services
- 524 - Insurance carriers
- 524 - Insurance agents, brokers, and service
- 531 - Real estate
- 525 - Holding and other investment offices

6.

541	-	Business services
811	-	Miscellaneous repair services
512	-	Motion pictures
711	-	Amusement and recreation services
621	-	Health services
622	-	Health services
623	-	Health services
5411	-	Legal services
611	-	Educational services
624	-	Social services
712	-	Museums, art galleries and botanical and zoological gardens
813	-	Membership organizations
541	-	Engineering, accounting, research, management, and related services

ARTICLE IX
Special Permit Conditions

§ 200-41. Removal, processing and treating of raw materials.

- A. Removal of sand, earth, gravel or other raw materials and the processing and treating of raw materials shall be conducted only by special permit of the Zoning Board of Appeals. This section shall not apply to such operations which are incidental to and in connection with the construction of a building on a lot.
- B. Any application for a special permit for the removal of sand, earth, gravel or other raw materials or for the processing and treating of raw materials shall be accompanied by a site plan depicting the land to be affected by such operation. In addition to complying with the minimum site plan requirements of § 200-28D, the site plan shall indicate the following:
- (1) Contours at intervals of not more than ten (10) feet;
 - (2) A placement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization;
 - (3) Finished grades not to exceed a slope of one (1) foot vertical to two (2) feet horizontal; and
 - (4) Existing removal area(s) and the proposed area(s) for removal in the immediate future.
- C. Any special permit granted for the removal of sand, earth, gravel or other raw materials or for the processing and treating of raw materials shall contain the following mandatory conditions:
- (1) Removal and processing operations shall not be conducted closer than fifty (50) feet to a public street or to any property line;
 - (2) **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]** All equipment, except mobile equipment, for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery, shall not be used closer than one hundred (100) feet from any public street or from any adjoining property line;
 - (3) Any access to excavated areas or areas in the process of excavation shall be adequately posted with "Keep Out - Danger" signs;
 - (4) Any work or bank that slopes more than thirty (30) degrees downward adjacent to a public street shall be adequately fenced at the top;
 - (5) Fencings. A substantial fence shall be provided enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of ten (10) feet or more and create a slope of more than one (1) foot vertical to two (2) feet horizontal. Such fence shall be located ten (10) feet or more from the edge of the excavation or quarry, and shall be at least six (6) feet in height;
 - (6) Adequate provision is to be made for drainage during and after the completion of operations;

- (7) Adequate lateral support shall be maintained for all adjacent properties;
- (8) The use of explosives shall be done in accordance with the regulations for storage and handling of explosives as published by the Massachusetts Department of Public Safety and the North Reading Fire Department;
- (9) Provision shall be made for the adequate control of dust during operation;
- (10) There shall be replacement of at least four (4) inches of compacted topsoil over all excavated, filled or otherwise disturbed acres. There shall also be seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization;
- (11) Finished grades shall not exceed a slope of one (1) foot vertical to two (2) feet horizontal;
- (12) The special permit shall be conditioned upon compliance with applicable provisions of the environmental performance regulations of this Zoning Bylaw pursuant to § 200-87; and
- (13) It is recognized that the land reuse of a removal site is in the public interest. Therefore, land reuse plan(s) must be submitted to the Zoning Board of Appeals for approval subject to the regulations set forth in the following subsections:
 - (a) The Zoning Board of Appeals may require that up to three (3) approved alternative future land reuse plans be submitted for such land as is used for the extraction of earth, sand, gravel, rock and associated raw materials;
 - (b) Said land reuse plan and its implementation applies to the conversion of the abandoned site and its planned reuse, including landscaping and erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future [zero (0) to five (5) years], and be revised as necessary as the existing physical character of the removal area changes;
 - (c) The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one (1) year of the abandonment of said operation. Abandonment for the purpose of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to abandon the use of the land; and
 - (d) A bond in an amount stated by the Zoning Board of Appeals shall be posted to insure the satisfactory implementation of the reuse plan.

§ 200-42. Home occupations.

- A. No special permit for the use of a dwelling for a home occupation shall be granted unless the Zoning Board of Appeals makes a finding that the buildings or premises occupied will not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, traffic, emission of odor, gas, smoke, dust, noise or electrical disturbance, or due to any other incident of the home occupation. In the case of a multi-family dwelling, the

Zoning Board of Appeals must find that the use will in no way become objectionable or

detrimental to any residential use within the multi-family structure.

- B. A special permit for the use of a dwelling for a home occupation shall contain the following mandatory conditions:
- (1) No person other than the residential occupant(s) shall be employed therein;
 - (2) Not more than three hundred (300) square feet shall be devoted to such use; and
 - (3) There shall be no display of goods, wares or signs related to the home occupation visible from the exterior.

§ 200-43. Gasoline service stations.

A special permit for the operation of a gasoline service station, including self-service gasoline stations, shall include the following mandatory conditions:

- A. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that access to or egress from a gasoline service station at such a location will create hazardous conditions;
- B. The maximum width of driveways and sidewalk openings measured at the street lot line shall be thirty (30) feet; the minimum width shall be twenty (20) feet;
- C. The minimum distance of driveways, measured at a lot line, shall be as follows:
- (1) From corner lot line, twenty (20) feet;
 - (2) From interior lot line, ten (10) feet; and
 - (3) From other driveway on same lot, twenty (20) feet.
- D. The minimum setback of gasoline pumps from all street lines shall be twelve (12) feet;
- E. A raised curb at least twelve (12) inches in height shall be constructed along all lot lines except at driveway openings;
- F. The screening and buffering requirements of § 200-64D and F of this Zoning Bylaw shall be adhered to where applicable; and
- G. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line.

§ 200-44. Floodplain District. [Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-10-1985 OTM by Art. 22, approved 2-4-1986; 10-8-1987 OTM by Art. 21, approved 11-30-1987; 10-5-1989 OTM by Art. 21, approved 1-8-1990; 4-30-1992 ATM by Art. 22, approved 8-26-1992]

A. Purposes. The purposes of this section are:

- (1) To provide the lands in the Town of North Reading subject to seasonal or periodic flooding as hereinafter described shall not be altered in such a manner as to endanger the health, safety or welfare of the occupants thereof or of the public.
- (2) To protect, preserve and maintain the water table and water recharge areas within the town so as to preserve present and potential water supplies for the public health, safety and welfare of the residents of the Town of North Reading.
- (3) To assure the continuation of the natural flow of the watercourses within the Town of North Reading; and to maintain adequate and safe floodwater storage capacity in order to protect persons and property against the hazards of flood inundation.
- (4) To ensure that all new subdivisions are designed and constructed to minimize flood damage potential, that all public utilities and facilities are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards. **[Added 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

B. District locations. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

- (1) The Floodplain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with constructions in floodplains. The floodplain district includes all floodplain areas designated A, AO, AH and A1-A30 inclusive, as shown on the Flood Insurance Rate Map (FIRM) for the Town of North Reading, dated March 5, 1996, published by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program and further described in the Flood Insurance Study (FIS) for the Town of North Reading dated July 6, 1982, and revised June 13, 2002. **{Amended 4-5-2004 ATM by Art. 3, approved 5-13-2004}**
- (2) These maps as well as the accompanying Flood Insurance Study are incorporated herein by reference.

C. District use regulations. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**

- (1) The Floodplain District is established as an overlay district superimposed on all other existing zoning districts. All uses and development in the Floodplain District, including structural and non-structural activities, whether permitted in the underlying district by right or by special permit shall be subject to all of the provisions of this section, and must also be in compliance with the following:
 - (a) Chapter 131, Section 40 of the Massachusetts General Laws;
 - (b) Those provisions of the Massachusetts State Building Code which address floodplain and coastal high hazard areas as they may be in effect from time to time, including but not limited to 780 CMR 2102.0, Flood Resistant Construction;
 - (c) Massachusetts Department of Environmental Protection (DEP), Wetland Protection Regulations, 310 CMR 10.00, as they are in effect from time to time;

- (d) DEP Inland Wetland Restrictions, 310 CMR 6.00, as they are in effect from time to time;
 - (e) DEP Coastal Wetlands Restriction, 302 CMR 4.00, as they are in effect from time to time;
 - (f) DEP Minimum Requirements for the Subsurface Disposal of Sanitary Sewers, 310 CMR 15, Title 5, as they are in effect from time to time;
 - (g) Any variances of the above referenced state regulations granted in accordance with the required variance procedures established in said regulations.
- (2) Permitted uses. The following uses shall be permitted by right within the district:
- (a) Uses directly related to the conservation of water, plants and wildlife, including facilities for municipal water supply purposes;
 - (b) Outdoor recreation activities and facilities, such as unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted;
 - (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow patterns of any watercourse;
 - (d) Grazing and farming, including truck gardening and harvesting of crops;
 - (e) Forestry and nurseries;
 - (f) Small non-residential structures of less than one hundred (100) square feet of floor area in connection with recreation or the growing, harvesting, storage or sale of crops raised on the premises;
 - (g) Creation of ponds or detention areas, and associated structures, with a total water surface area at peak elevation not in excess of 40,000 square feet;
 - (h) Removal of silt and other accumulated debris from a watercourse which tends to interfere with the natural flow patterns of the watercourse;
 - (i) Construction, alteration, repair and maintenance of municipal infrastructure including water system, sewer system, drainage, roadways and public utilities.
- (3) Special permit uses.
- (a) Except as specifically permitted in Subsection C(2), in the floodplain district no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling or earth transfer or relocation shall be permitted without first obtaining a special permit from the Community Planning Commission.

- (b) The Community Planning Commission may allow the permitted uses of the underlying district within the Floodplain District upon issuance of a special permit subject to the following conditions:
 - [1] That the applicant first obtain a permit from the North Reading Conservation Commission.
 - [2] That all encroachments including fill, new construction, substantial improvements to existing structures, earth transfer, and other development be certified by a registered professional engineer that such encroachments shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.
 - [3] That the lowest floor of all new structures including any substantial improvements are above the one-hundred-year flood elevation as shown on the FIRM maps or, in the absence of flood elevation information, are above the one-hundred-year flood elevation as determined and certified by a registered professional engineer.
 - [4] That all new construction and substantial improvements:
 - [a] Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
 - [b] Be constructed with materials resistant to flood damage.
 - [5] Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones. **[Added 4-11-1996 ATM by Art. 20, approved 8-3-1996]**
- (4) Prohibited uses. The following uses are prohibited within the Floodplain District.
 - (a) Structures located in or alterations to the flood channel or watercourse.
 - (b) Accessory buildings or accessory structures used for human abode.
- D. Regulations and application procedure. After public notice and public hearing the Commission shall promulgate regulations to effectuate the purposes of this bylaw. The regulations shall include the application procedure for a special permit. Failure by the Commission to promulgate such regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.
- E. Definitions. Except as otherwise provided in the regulations of the Commission, the definitions of the terms of this bylaw shall be as set forth in the National Flood Insurance Program and Related Regulations, revised as of October 1, 1990, as amended, prepared by the Federal Emergency Management Agency. **[Amended 4-11-1996 ATM by Art 20, approved 8-3-1996]**
- F. Review by other Town boards and agencies. Upon receipt of an application for a special permit for activity in the Floodplain District, the Community Planning Commission shall forward a copy of such application to the Conservation Commission and the Town Engineer with a request that they review the application and submit their comments thereon to the CPC prior to or at the public

hearing on the application. Failure of the Conservation Commission and/or Town Engineer to make recommendations or comments at or prior to the public hearing shall be deemed lack of opposition to the application.

- G. Public hearing. Special permits shall only be issued following public hearings held as provided for in Section 9 of MGL c. 40A and in accordance with the procedure and timetable set forth therein.
- H. Permits and determinations.
 - (1) Conditional decisions. In granting a special permit the Community Planning Commission may impose additional specific conditions, safeguards and limitations on time or use as are deemed necessary to ensure compliance with the intent of this bylaw. The Community Planning Commission, in reaching its decision, will consider the simplicity, reliability and effectiveness of the proposed mitigating measures and the damage likely to result if these measures were to fail.
 - (2) Decision that area does not warrant protection. The Community Planning Commission may decide, after having reviewed the submitted material that although an area is included within the Floodplain District, it does not warrant protection under the stated purpose and intent of this bylaw and as such the application warrants the grant of a special permit having no conditions imposed for the area which does not warrant protection. All such decisions shall require a FEMA letter of map revision as a condition of approval. **[Amended 4-11-1996 ATM by Art. 20, approved 8-3-1996]**
 - (3) Expiration of special permits. Special permit granted under this section shall lapse within two (2) years. A substantial use under the special permit must have commenced within the two-year period, or the permit shall be deemed expired.
 - (4) Previously authorized work. The special permit requirement established under this article shall not apply to any work which, prior to the effective date of this bylaw, had been authorized by all required orders of conditions under Massachusetts General Laws, Chapter 131, Section 40, and special permits under the former Section 9.4 of the Zoning Bylaw, provided that such work is performed in accordance with the terms of said orders and special permits, including any amendment or extension of said orders and special permits as may be granted by the issuing authority.
- I. Denial of permit. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; and for failure to meet other requirements in regulations of the Commission.
- J. Burden of proof. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not increase existing floodplain elevations. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.
- K. Appeals. A decision of the Commission shall be reviewable by the North Reading Zoning Board of Appeals in an action filed within 30 days thereof in accordance with Article VI of the Zoning Bylaw of the Town of North Reading, Massachusetts. **[Amended 10-2-2000 OTM by Art. 16, approved 3-29-2001]**
- L. Severability. The invalidity of any section or provisions of this bylaw shall not invalidate any other

section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.⁴

§ 200-45. Adult uses. [Added 10-4-1999 OTM by Art. 10, approved 12-14-1999]

- A. Purpose and intent. It is the purpose and intent of this section to address and mitigate the secondary effects of the adult uses and sexually oriented businesses referenced herein, since such secondary effects have been found by the Community Planning Commission, as a result of the studies relied upon by the Community Planning Commission and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town, all of which secondary impacts are adverse to the health, safety, and general welfare of the Town of North Reading and its inhabitants. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the Constitutions of the United States of America and of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials. This bylaw is adopted pursuant to MGL c. 40A, ~ 9A and pursuant to the Home Rule Amendment to the Massachusetts Constitution.
- B. Definitions.

ADULT BOOKSTORE -- An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matter which are distinguished as characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement, as defined in MGL c. 272, ~ 31.

ADULT CLUB -- An establishment having as a substantial or significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in MGL c. 272, ~ 31.

ADULT PARAPHERNALIA STORE -- An establishment having a substantial or significant portion of its stock in devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.

ADULT THEATER -- An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.

⁴ Editor's Note: Former Sec. 9.5, Development in floodplain areas, which immediately followed this subsection, as amended 11-6-1978 OTM by Art. 12, approved 2-6-1979, was deleted 10-10-1985 OTM by Art. 22, approved 2-4-1986.

ADULT USE:

- (1) A use having as a substantial or significant portion of its stock in trade such as but not limited to, books, magazines or video tapes, which are distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.
- (2) A use having as a substantial or significant portion of its entertainment such as, but not limited to, cinematic, theatrical, or dance presentation of a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.
- (3) A use having as a substantial or significant portion of its manufactured items which are distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.
- (4) An adult bookstore, adult club, adult theater, adult video store, and adult paraphernalia store, as defined in this bylaw.

ADULT VIDEO STORE -- An establishment having a substantial or significant portion of its stock in videos or other matters which are distinguished by emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31.

SUBSTANTIAL OR SIGNIFICANT PORTION -- The term "substantial or significant portion" as used herein shall mean any of the following:

- (1) Ten (10) percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time; or
- (2) Ten (10) percent or more of the annual number of gross sales, rentals or other business transactions; or
- (3) Ten (10) percent or more of the annual gross business revenue; or
- (4) Ten (10) percent or more of the hours during which the establishment is open.

C. Special permits. Adult uses may only be permitted in the Highway Business District and only upon authorization of a special permit by the Zoning Board of Appeals subject to the following conditions:

- (1) An adult use shall not be located within:
 - (a) Five hundred (500) feet of a residential zone;
 - (b) One thousand (1,000) feet of a school;
 - (c) Five hundred (500) feet of a church or similar place of worship;
 - (d) One thousand (1,000) feet of any other adult use;
 - (e) One thousand (1,000) feet of a park or playground.

- (2) If the adult use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All shall be clearly seen from the center of the establishment.
- (3) If the adult use allows for personal dancing or massages within the premises, the areas in which these personal services occur shall not be closed off by curtains, doors, or screens. All shall be clearly visible from the center of the establishment.
- (4) All adult uses shall be inaccessible to persons less than 18 years of age.
- (5) Signs. All signs for any adult use must meet the requirements of Article XIV. In addition, no advertisement, display or other promotional material which is distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, ~ 31, shall be visible to the public from any public way including but not limited to sidewalks, pedestrian walkways, highways or railways.
- (6) All special permits granted by the Town of North Reading for adult uses shall be subject to annual automatic renewal, based on compliance with the terms and conditions of approval, provided there have been no changes in the owner or manager of the use or in the use itself. Any findings of non-compliance shall be reason for non-renewal of said special permit.
- (7) Any other condition that the Zoning Board of Appeals finds appropriate and consistent with the purposes and intent of this bylaw to protect the health, safety, general welfare and/or quality of life of the residents of North Reading. **[Amended 10-2-2000 OTM by Art. 16, approved 3-29-2001]**

D. Application. The application for a special permit for an adult accessory use must include the following information:

- (1) Name and address of the legal owner of the proposed adult use establishment;
- (2) Name and address of all persons having a lawful, equity or security interest in the adult use establishment;
- (3) A sworn statement must be provided stating that neither the applicant nor any person having a lawful, equity or security interest in the adult use establishment has been convicted of violating the provisions of MGL c. 119, ~ 63 or MGL c. 272, ~ 28;
- (4) Name and address of the manager of the adult use establishment;
- (5) Proposed provisions for security within and without the adult use establishment;
- (6) The number of employees; and
- (7) The present and proposed physical layout of the interior of the adult use establishment.

E. Amortization.

- (1) Any adult use which exists in North Reading at the time of the adoption of this bylaw shall cease and desist all adult use activities within five years (5) of the effective date of this bylaw.

- (2) Adult uses which apply for and are granted a special permit under the provisions of this bylaw shall be exempt from Subsection E(1) above.
- F. No special permit for an adult accessory use shall be issued to any person convicted of violating MGL c. 119, ~ 63 or MGL c. 272, ~ 28.
- G. Severability. If any section, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

§ 200-46. Personal wireless service facilities. [Added 4-6-2000 ATM by Art. 25, approved 6-28-2000; amended 10-12-2000 OTM by Art. 32, approved 3-29-2001]

A. Purpose and intent.

- (1) It is the express purpose of this section to minimize the visual and environmental impacts of personal wireless service facilities. The section enables the review and approval of personal wireless service facilities by the Town's Community Planning Commission in keeping with the Town's existing bylaws and historic development patterns, including the size and spacing of structures and open spaces. This section is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in North Reading.
- (2) The regulation of personal wireless service facilities is consistent with the purpose of the planning efforts of the Town through its local Master Plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of the natural resources; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

B. Definitions.

ABOVE GROUND LEVEL (AGL) -- A measurement of height from the natural grade of a site to the highest point of a structure.

ANTENNA -- The surface from which wireless radio signals are sent and received by a personal wireless service facility.

CAMOUFLAGED -- A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

CARRIER -- A company that provides wireless services.

CO-LOCATION -- The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

CROSS-POLARIZED (OR DUAL-POLARIZED) ANTENNA -- A low mount that has three panels flush mounted or attached very close to the shaft.

ELEVATION -- The measurement of height above sea level.

ENVIRONMENTAL ASSESSMENT (EA) -- An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER -- An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

FALL ZONE -- The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FUNCTIONALLY EQUIVALENT SERVICES -- Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.

GUYED TOWER -- A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

LATTICE TOWER -- A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

LICENSED CARRIER -- A company authorized by the FCC to construct and operate a commercial mobile radio services system.

MONOPOLE -- The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

MOUNT -- The structure or surface upon which antennas are mounted, including the following four types of mounts:

- (1) Roof-mounted. Mounted on the roof of a building.
- (2) Side-mounted. Mounted on the side of a building.
- (3) Ground-mounted. Mounted on the ground.
- (4) Structure-mounted. Mounted on a structure other than a building.

OMNIDIRECTIONAL (WHIP) ANTENNA -- A thin rod that beams and receives a signal in all directions.

PANEL ANTENNA -- A flat surface antenna usually developed in multiples.

PERSONAL WIRELESS SERVICE FACILITY -- Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICES -- The three types of services regulated by this bylaw.

RADIOFREQUENCY (RF) ENGINEER -- An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

RADIOFREQUENCY RADIATION (RFR) -- The emissions from personal wireless service facilities.

SECURITY BARRIER -- A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION -- The distance between one carrier's array of antennas and another carrier's array.

C. District regulations.

(1) Use regulations. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

- (a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Subsection C(3)(e) below. Such installations shall require a special permit and site plan approval pursuant to Chapter 85 and shall require site plan approval by the Town.
- (b) A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a special permit and site plan approval pursuant to Chapter 85. Such facilities may locate by special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of Subsection C(3)(e), (f), and (g) and all of the special permit regulations set forth in Subsection D of this bylaw.

(2) Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:

- (a) If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider the use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- (b) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

- (c) The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a special permit.
- (3) Dimensional requirements. Personal wireless service facilities shall comply with the following requirements:
 - (a) Height, general. Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
 - (b) Height, ground-mounted facilities. Ground-mounted personal wireless service facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.
 - (c) Height, side- and roof-mounted facilities. Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
 - (d) Height, existing structures. New antennas located on any of the following structures existing on the effective date of this bylaw shall be exempt from the height restrictions of this bylaw provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: water towers, guyed towers, lattice towers, fire towers and monopoles.
 - (e) Height, existing structures (utility). New antennas located on any of the following existing structures shall be exempt from the height restrictions of this bylaw provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in the Historic District.
 - (f) Height, wireless facility overlay districts. Where the town establishes wireless facility overlay districts (as designated on the Town Zoning Map), personal wireless service facilities of up to 130 feet in height may be permitted by special permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and special permit regulations set forth in this bylaw.

- (g) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:
 - [1] In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone."
 - [2] In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities, except as provided in Subsection C(3)(h) below.
- (h) Flexibility. In reviewing a special permit application for a personal wireless service facility, the Community Planning Commission may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Community Planning Commission shall consider both the visual and safety impacts of the proposed use.

D. Special permit regulations. All personal wireless service facilities shall comply with the performance standards set forth in this section.

(1) Design standards.

- (a) Visibility/camouflage. Personal wireless service facilities shall be camouflaged as follows.
 - [1] Camouflage by existing buildings or structures:
 - [a] When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
 - [b] Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
 - [2] Camouflage by vegetation: If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer.

Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Community Planning Commission shall determine the types of trees and plant materials and depth of the needed buffer based site conditions.

[3] Color:

[a] Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

[b] To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light gray or light blue hue which blends with sky and clouds.

(b) Equipment shelters. Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

[1] Equipment shelters shall be located in underground vaults; or

[2] Equipment shelters shall be designed consistent with traditional New England architectural styles and materials, with a roof pitch of a least 10/12 and wood clapboard or shingle siding; or

[3] Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building and/or wooden fence. The Community Planning Commission shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

(c) Lighting and signage.

[1] Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

[2] Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.

[3] All ground-mounted personal wireless service facilities shall be surrounded by a security barrier.

(d) Historic buildings and districts.

[1] Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

- [2] Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
 - [3] Personal wireless service facilities within the Historic District shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (e) Scenic landscape and vistas.
 - [1] Personal wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the camouflage section above, all ground-mounted personal wireless service facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
 - [2] Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this bylaw will apply.
- (2) Environmental standards.
 - (a) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
 - (b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
 - (c) Stormwater runoff shall be contained on site.
 - (d) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 30 db at the property line.
 - (e) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.
- (3) Safety standards.
 - (a) Radiofrequency radiation (RFR) standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines).

- (4) Alternative technologies. All applications for personal wireless facilities shall provide documentation which demonstrates to the satisfaction of the Community Planning Commission that all alternatives to the proposed construction have been explored and the reasons for their rejection. Cost shall not be considered a satisfactory reason.

E. Application procedures.

- (1) Special permit granting authority (SPGA). The special permit granting authority (SPGA) for personal wireless service facilities shall be the Community Planning Commission.
- (2) Application filing requirements. The following shall be included with an application for a special permit for all personal wireless service facilities:

- (a) General filing requirements.

- [1] Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- [2] Co-applicants shall include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- [3] A licensed carrier shall either be an applicant or a co-applicant.
- [4] Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photoreproductions of signatures will not be accepted.

- (b) Location filing requirements.

- [1] Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- [2] Tax map and parcel number of subject property.
- [3] Zoning district designation for the subject parcel (submit copy of Town Zoning Map with parcel identified).
- [4] A plan stamped by a registered licensed surveyor showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- [5] A Town-wide map showing all other existing personal wireless service facilities in the Town and outside the Town within one mile of its corporate limits.
- [6] The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.

- (c) Siting filing requirements. A one-inch-equals-40 feet vicinity plan showing the following:

- [1] Property lines for the subject property.
- [2] Property lines of all properties adjacent to the subject property within 300 feet.
- [3] Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
- [4] Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- [5] Proposed location of antenna, mount and equipment shelter(s).
- [6] Proposed security barrier, indicating type and extent as well as point of controlled entry.
- [7] Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
- [8] Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
- [9] Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- [10] All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- [11] Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- [12] Lines representing the sight line showing view-point (point from which view is taken) and visible point (point being viewed) from sight lines subsection below.

[a] Sight lines and photographs as described below:

- [i] Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening tree and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from

the closest habitable structures or public roads, if any.

- [ii] Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.
 - [iii] Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- [b] Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
 - [i] Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
 - [ii] Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
 - [iii] Any and all structures on the subject property.
 - [iv] Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - [v] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- (d) Design filing requirements.
 - [1] Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
 - [2] Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
 - [3] Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas,

mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

- [4] Dimensions of the personal wireless service facility specified for all three directions, height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- [5] Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- [6] Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- [7] Within 21 days of filing an application for a special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.
- [8] If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaires proposed.

(e) Noise filing requirements.

- [1] The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:
 - [a] Existing, or ambient: the measurements of existing noise.
 - [b] Existing plus proposed personal wireless service facilities; maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
- [2] Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards of this bylaw.

(f) Radiofrequency radiation (RFR) filing requirements. The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:

- [1] Existing, or ambient: the measurements of existing RFR.

- [2] Existing plus proposed personal wireless service facilities; maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.
- [3] Certification, signed by RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the radiofrequency radiation standards subsection of this bylaw.

(g) Federal environmental filing requirements.

- [1] The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. 1). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 - [a] Wilderness areas.
 - [b] Wildlife preserves.
 - [c] Endangered species habitat.
 - [d] Historical site.
 - [e] Indian religious site.
 - [f] Floodplain.
 - [g] Wetlands.
 - [h] High-intensity white lights in residential neighborhoods.
 - [i] Excessive radiofrequency radiation exposure.
- [2] At the time of the application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EAC to be submitted to the FCC.
- [3] The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.
- [4] The Community Planning Commission may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

F. Co-location.

- (1) Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service

facilities that are stand-alone facilities. All applicants for a special permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- (a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
 - (b) Contact with all the other licensed carriers for commercial mobile radio services operating in the county; and
 - (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (2) In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
 - (3) If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
 - (4) If the Community Planning Commission approves co-location for a personal wireless service facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit and site plan approval. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

G. Modifications. A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a special permit and site plan approval when the following events apply:

- (1) The applicant and/or co-applicant wants to alter the terms of the special permit by changing the personal wireless service facility in one or more of the following ways:
 - (a) Change in the number of facilities or structures permitted on the site;
 - (b) Change in technology used for the personal wireless service facility.
- (2) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

H. Monitoring and maintenance.

- (1) After the personal wireless service facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the

special permit, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by an RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the radiofrequency standards section of this bylaw. Failure to provide such reports shall be grounds for revocation of the special permit.

- (2) After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the special permit, and at annual intervals from the date of issuance of the special permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards subsection of this bylaw. Failure to provide such reports shall be grounds for revocation of the special permit.
- (3) The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. Failure to do so shall constitute a violation of the conditions of the special permit and shall be grounds for enforcement actions.

I. Abandonment or discontinuation of use.

- (1) At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- (2) Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - (a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (3) If a carrier fails to remove a personal wireless service facility in accordance with this section of this bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Community Planning Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the Town must remove the facility.

J. Reconstruction or replacement of existing towers and monopoles. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this bylaw may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the

Community Planning Commission finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Community Planning Commission shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

- K. Term of special permit. A special permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new special permit shall be required.

ARTICLE X
Open Space Residential Development

[Amended 4-7-2008 ATM by Art. 27, approved 6-27-2008]

§ 200-47. Purposes and intent.

- A. Protect open space, agricultural and forestry land, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources;
- B. Encourage creative, environmentally sensitive design in residential developments;
- C. Encourage a more efficient form of development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision; and
- D. Provide a variety of housing choices.

§ 200-48. Applicability.

- A. In the RA, RR, or RE District, the Community Planning Commission may grant a special permit for the following uses of a tract of land as an Open Space Residential Development, subject to the provisions of this bylaw:
 - (1) Any development of six or more dwelling units; or
 - (2) One or more divisions of land that would cumulatively result in an increase of six or more residential lots above the number existing twenty-four months earlier on a parcel or contiguous parcels of land in common ownership as of the effective date of this bylaw. For purposes of this section, a subdivision or division of land shall mean any division of land subject to M.G.L. c. 41, Sections 81K-81GG.
- B. The Community Planning Commission may grant a special permit for an Open Space Residential Development that contains less than six dwelling units or six residential lots in the RA, RR or RE District, provided that such application conforms in all respects to this bylaw.
- C. This bylaw shall not apply to the conversion of an existing structure into six or more dwelling units.

§ 200-49. Relationship to Subdivision Control.

A subdivision plan is not required for an Open Space Residential Development, but an applicant who proposes a subdivision plan for an Open Space Residential Development shall submit the same to the Community Planning Commission in accordance with the Rules and Regulations Governing the Subdivision of Land following approval of an Open Space Residential Development special permit.

§ 200-50. Basic Requirements.

- A. Permitted Uses. An Open Space Residential Development may include the following uses and may consist of any combination of the below uses:

- (1) Detached single-family dwellings.
- (2) Townhouse dwellings, not to exceed four dwelling units per building.
- (3) Open space and conservation areas.
- (4) Passive recreation, including trails for walking, hiking, cross country skiing, and areas for other low-impact activities such as picnicking and wildlife observation.
- (5) Agricultural, equestrian and horticultural uses.
- (6) Accessory recreational uses, such as a tennis court or playground.

B. Open Space Requirement.

- (1) An Open Space Residential Development must provide at least fifty percent (50%) of the total land area of the tract as permanently protected, usable, common open space that is functional for purposes intended by this bylaw.
- (2) The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by residents of individual dwelling units. The open space land shall be perpetually kept in an open state, and shall be preserved exclusively for the purposes set forth herein, and it shall be maintained in a manner which will ensure its suitability for its intended purposes.
- (3) The following standards apply to the common open space in an Open Space Residential Development:
 - (a) Use, Shape, Location of Common Open Space. Wherever feasible, the open space shall be undisturbed, unaltered and left in its natural condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area, and serve as a visual and natural amenity for residents of the development and the Town.
 - (b) The open space shall be contiguous. "Contiguous" shall be defined as being connected and/or linked as a unit. Open Space will still be considered connected if it is separated by a roadway or an accessory amenity. The Community Planning Commission may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.
 - (c) The majority of the open space shall not be in buffer strips, undeveloped fingers between house lots, or other narrow linear forms.
 - (d) Common open space shall be usable for wildlife habitat, passive recreation, resource preservation, agriculture or equestrian uses and the following additional purposes: historic preservation, outdoor education, park purposes, horticulture, forestry, or a combination of any of these uses; and the open space shall be served by suitable access for such purposes. The Community Planning Commission may permit up to 5% of the open space to be paved (pervious paving materials are

encouraged) or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.

- (e) The location(s) of the common open space shall be subject to approval by the Community Planning Commission.
 - (f) Each parcel of common open space shall be to greatest extent practicable adequately accessible to the general public and not just for the exclusive use of a homeowners association or non-profit organization.
 - (g) Land used for common or shared septic systems may be counted toward the minimum common open space requirement, but not land use for a septic system serving one dwelling.
 - (h) Wastewater and stormwater management systems serving the Open Space Residential Development may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
 - (i) The percentage of common open space consisting of floodplain and wetlands as defined in M.G.L. c.131, section 40 shall not exceed the percentage of wetlands in the Open Space Residential Development as a whole.
 - (j) Unless approved by the Community Planning Commission, common open space shall not be considered usable if the slope of the finished grade exceeds twenty-five percent (25%).
 - (k) Existing utility easements may not be counted as common open space.
- (4) Ownership of Open Space.
- (a) The common open space shall, at the Community Planning Commission's determination, be conveyed to:
 - [1] A corporation or trust owned jointly or in common, or to be owned jointly and in common by the owners of lots or dwelling units in the Open Space Residential Development. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance; and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days of written notice to the trust or corporation as to the inadequate maintenance, and if the trust or corporation fails to complete such maintenance, the Town may perform it. The cost incurred by the Town for this maintenance due to the failure of the corporation to provide said mandatory maintenance shall be paid for by the trust or corporation. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions.

Documents creating such trust or corporation shall be submitted to the Community Planning Commission for approval, who will have Town Counsel review these documents at the expense of the applicant for the proposed Open Space Residential Development. After these documents have been approved by Town Counsel and the Community Planning Commission, the applicant is responsible for recording them in the Middlesex Registry of Deeds and providing proof of recording to the North Reading Community Planning Department;

[2] The Town or the North Reading Conservation Commission and accepted for park or open space use; or

[3] A non-profit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.

(b) In any case where the common open space is not conveyed to the North Reading Conservation Commission, a legally enforceable restriction under M.G.L. c.184, §§ 31-33, shall be recorded with the Middlesex South Registry of Deeds, providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadways.

C. Dimensional Standards. To maximize the amount of open space, reduce site disturbance and protect significant farmland or scenic landscapes, the Community Planning Commission may waive the minimum requirements for lot area, frontage, front yard setback, maximum building area, or minimum open space as a percentage of lot area that would normally apply in the zoning district, except as provided below.

(1) Any Open Space Residential Development lot that relies on an existing public way for frontage shall conform to the dimensional requirements of the applicable zoning district.

(2) Any Open Space Residential Development lot that abuts an existing single-family dwelling shall comply with the minimum yard setback(s) of the applicable zoning district along the boundary of the abutting lot.

(3) The minimum distance between adjacent dwellings in an Open Space Residential Development shall be at least equal to the height of the taller dwelling, except that the Community Planning Commission may waive this requirement if it determines that a reduction in minimum distance between dwellings will further the goals of this bylaw.

(4) At least fifty percent (50%) of the required yard setbacks shall be maintained on interior lots in the Open Space Residential Development unless a reduction is authorized by the Community Planning Commission to accommodate "zero lot line" design.

D. Maximum Number of Units. The maximum number of units shall not exceed 1.20 times the number of single-family house lots that could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

- E. Stormwater Management. The Community Planning Commission shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate.
- F. Limitation of Subdivision. No lot shown on a plan for which an Open Space Residential Development permit is granted under this section may be further subdivided, and a notation to this effect shall be shown on the plans.
- G. Pre-Submission Conference.
 - (1) Applicants seeking an Open Space Residential Development special permit shall request a pre-submission conference with the Community Planning Commission to review the scope of the project and the site for which it is proposed. The Community Planning Commission shall invite other Town boards or officials with authority to issue permits for the project to the pre-submission conference. At a minimum, the intent of the pre-submission conference shall be to:
 - (a) Identify the key natural features of the proposed development site.
 - (b) Identify historic or culturally important features of the site.
 - (c) Identify any safety, traffic, or infrastructure issues directly related to the site.
 - (d) Identify existing trails on the site or on abutting parcels, and connections thereto. Every effort shall be made to preserve and improve existing trail networks.
 - (e) Identify areas that the Town prefers to see preserved for open space, viewshed, wildlife habitat, agricultural or agricultural buffer purposes.
 - (f) Discuss the proposed plan and any issues relative to the review criteria for the concept plan special permit.
 - (g) Discuss any issues relevant to Open Space Residential Development requirements.
 - (h) Assist the applicant in understanding all related permitting issues required for the project.
 - (i) Set a timetable for submittal of a formal application
 - (2) Pre-Submission Conference Plans and Documents Required.
 - (a) Applicants seeking an Open Space Residential Development special permit shall request a pre-submission conference with the Community Planning Commission to review the scope of the project and the site for which it is proposed. The Community Planning Commission shall invite other Town boards or officials with authority to issue permits for the project to the pre-submission conference. To facilitate the review and discussion of the Open Space Residential Development, applicants are required to submit the following information and materials:

- [1] Site Context Map. This map illustrates the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field

inspections, it should show various kinds of major natural resources or features that cross parcel lines or that are located on adjoining lands. This map enables the Community Planning Commission to understand the site in relation to what is occurring on adjacent properties.

[2] Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature un-degraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features [such as old structures or stone walls], unusual geologic formations and scenic views into and out from the property. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

[3] Other Information. In addition, applicants are invited to submit the information set forth in § 200-51A.

(b) Site Visit. Applicants are encouraged to request a site visit by the Community Planning Commission and/or its agents to facilitate pre-application review of the Open Space Residential Development. If a site visit is requested, the Community Planning Commission shall invite other Town boards and officials to attend.

(c) Design Criteria. The design process and criteria set forth in §§ 200-50H(1) through (5) and 200-51A(7)(a)[1] through [9] and 200-51A(7)(b)[1] through [10] should be discussed by the parties at the Pre-Submission Conference and Site Visit.

H. Design Process. At the time of the application for a special permit for Open Space Residential Development, the applicant must demonstrate to the Community Planning Commission that the layout of open space, roads and dwelling units in the concept plan is based on a design analysis performed by a team that includes a Registered Landscape Architect according to the following sequence of steps:

(1) Identification of conservation areas. The first step in the design process requires identification of conservation areas on the site, including wetlands, riverfront areas, and floodplains regulated by state or federal law; unprotected natural landscape features such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats for rare or endangered species and wildlife corridors or connections thereto; cultural features such as historic and archeological sites and scenic views; and recreational features such as established trails used for horseback riding, walking and cross-country skiing. Wherever possible, conservation areas shall include areas identified by the Community Planning Commission during the pre-submission conference.

(2) Identification and delineation of the proposed development area. The second step in the design process is to define and delineate the area that will contain buildings, roadways, other site improvements and amenities for residents of the development. To the maximum extent feasible, the proposed development area shall consist of land outside the identified conservation areas.

- (3) Location of dwelling units. The third step in the design process is to identify and delineate the approximate location of dwelling units in the proposed development area. The location of dwelling units should account for proximity to common open space and other amenities, including community buildings for use by residents of the development. Toward this end, the number of dwelling units with direct access to the amenities of the development should be maximized.
 - (4) Roads and trails. The fourth step in the design process is to identify and delineate the approximate location of roads and trails. Roads should be aligned to access the dwelling units. The layout of new trails should anticipate internal and external connections to existing and/or potential future roads, trails and sidewalks.
 - (5) Lotting. The final step in the design process is to identify the approximate location of lot lines if the Open Space Residential Development will require a definitive subdivision plan.
- I. Site Disturbance. After an Open Space Residential Development special permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the site until the application has been reviewed and approved as provided by these regulations.

§ 200-51. Application, Review and Decision Procedures.

- A. Open Space Residential Development Concept Plan Special Permit.
- (1) Procedures. A special permit may be issued by the Community Planning Commission pursuant to the notification, public hearing and decision procedures in Article VI of this bylaw.
 - (2) Site Visit. Whether or not a site visit was conducted during the Pre-Submission Stage, the Community Planning Commission may conduct a site visit during the public hearing process.
 - (3) Technical Experts. The Community Planning Commission may engage technical, including legal, experts, at the applicant's expense, as reasonably necessary in connection with its review of the applicant's proposed plan(s) and associated reports.
 - (4) Submittal Requirements. An application for an Open Space Residential Development special permit shall include a concept plan and a yield plan. The size, form, number and contents of the concept plan and yield plan shall be set forth in the Community Planning Commission's Open Space Residential Development Regulations. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.
 - (5) Concept Plan. The concept plan shall be a schematic representation of the proposed development, with sufficient detail about existing and proposed conditions to enable the Community Planning Commission to understand what is being proposed and to be able to respond to the applicant's proposals in an informed manner. The concept plan shall incorporate the Design Process set forth in § 200-50H(1) through (5) and the Design Standards according to §§ 200-51A(7)(a)[1] through [10] and 200-51A(7)(b)[1] through

[11], when determining a proposed design for the development. The concept plan shall consist of the following:

- (a) The concept plan may be prepared from deed information, USGS topographical maps, FEMA floodplain maps, assessor's maps, orthophotos, soil maps, Department of Environmental Protection (DEP) wetland maps, and other existing data. The locations of wetlands, streams and forest limits or locations do not need to be verified during the special permit process unless the applicant has delineated the same in the field and applies to the North Reading Conservation Commission for review and determination under M.G.L. c.131 Section 40 and the North Reading Wetlands Bylaw. For purposes of the concept plan, it is not necessary to verify these constraints, but these locations should be as accurate as possible in order to avoid significant changes at the definitive plan stage of permitting.
- (b) The concept plan shall include scaled drawings prepared by a Registered Landscape Architect or by a multidisciplinary team of which one member must be a Registered Landscape Architect. The concept plan shall incorporate the Open Space Residential Development Design Process outlined in § 200-50H above. At minimum, a concept plan shall provide the following information:
 - [1] The location of the proposed development, the name of the proposed development, boundaries, north point, date, legend, title and scale.
 - [2] The name of the record owner and the applicant, and the name of the Registered Landscape Architect that prepared the plan.
 - [3] The size of the site in acres.
 - [4] An existing conditions inventory and description of conservation areas identified during the Open Space Residential Development Design Process.
 - [5] The total number and approximate locations of the proposed buildings, dwelling units and/or lots, and the approximate size of each in square feet.
 - [6] The acreage and proposed use(s) of permanent open space.
 - [7] A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open Space parcels shall be clearly delineated on the plan.
 - [8] A narrative explanation detailing the percentage of floodplain and wetlands [if any] on the entire tract of land as well as the percentage of floodplain and wetlands [if any] included in the common open space, as well as being denoted on the Concept Plan.
 - [9] The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space.

- [10] A narrative explanation prepared by a certified Professional Engineer describing proposed systems for stormwater drainage and its likely impacts on-site and to any abutting parcels of land. For example, this narrative will specify whether soft or hard engineering methods will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. A soils statement (soil conservation survey is acceptable) shall be submitted to accompany the narrative explanation. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- [11] Official soil percolation tests for the purpose of siting wastewater treatment options are not required for this Concept Plan. However, a narrative explanation shall be prepared by a certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
- [12] All existing and proposed features and amenities including trails, recreation areas, pedestrian and bicycle paths, community buildings, off-street parking areas [list any other parking areas as well] shall be shown on the plan and described in a brief narrative explanation where appropriate.
- [13] The existing and proposed lines of streets, ways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
- [14] A narrative explanation prepared by a certified Professional Engineer, detailing the proposed drinking water supply system deemed adequate for fire protection and domestic use by the Water Superintendent and by the Fire Chief.
- [15] Sufficient detail of proposed built and natural features to enable the Community Planning Commission to make the required determinations under § 200-51A(8) below.
- [16] A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.
- [17] A narrative indicating all requested waivers, reductions and/or modifications as permitted within the requirements of this bylaw; as well as a narrative indicating all waivers or variances required from other local and state regulations and bylaws required for the proposed Open Space Residential Development.

(6) Yield Plan.

- (a) The purpose of the yield plan is to demonstrate the maximum number of lots that could be developed on the site under a conventional plan. The yield plan must comply with the following criteria:

- [1] Community Planning Commission's subdivision rules and regulations for a preliminary plan;
- [2] Full compliance with the Zoning Bylaw in effect at the time of yield plan submittal; and
- [3] Require no zoning variances.

- (b) It is the applicant's burden to submit reasonable proof that the number of lots in the yield plan could meet the engineering and design specifications required for a conventional plan. The total number of lots in the Open Space Residential Development shall be determined by the Community Planning Commission, based upon its review of the applicant's yield plan, but in no event shall include more than a 20% increase over the number of lots that could be developed according to the yield plan, subject to the Commission's approval. In addition to the yield plan, the applicant shall also submit a narrative explanation detailing the results of the determination the yield plan.

(7) Design Standards. The following generic and site specific design standards shall apply to all Open Space Residential Development and shall govern the development and design process:

(a) Generic Design Standards:

- [1] The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainageways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- [2] Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- [3] Building designs shall relate harmoniously to the terrain and use scale, building materials, colors and architecture that are compatible with other buildings of similar scale in the vicinity; and shall relate harmoniously to the architecture of existing buildings of similar scale in the vicinity that have functional or visual relationship to the proposed buildings.

- [4] Variable lot sizes are encouraged as is a mix of housing types and house sizes to reduce monotony and repetition.
- [5] When townhouse or multi-family dwellings are proposed, the development shall (a) provide for varied roofline articulation that stresses New England village-style architecture; and (b) avoid unbroken building facades longer than sixty (60) feet, and regular spacings and building placements.
- [6] Garages shall be recessed at least five (5) feet from the front building wall of the house. Side entry and detached garages are strongly encouraged.
- [7] Developers are encouraged to provide outdoor living spaces, such as porches, on the front of residential structures, facing the street.
- [8] All open space [landscaped and usable] shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- [9] OSRD Developments proposed on a parcel of land where there are existing buildings, dwellings or structures that are listed on the National or State [Commonwealth of MA] Register of Historic Places; or on the North Reading Historic Building Survey and are more than 50 years old as of the date of application for an OSRD special permit shall be required to meet a higher standard of compatibility with existing, historically recognized architectural styles. An OSRD Development proposed on a parcel of land with existing historic buildings, dwellings or structures as defined above must preserve or generate the same number of buildings, dwellings or structures within the proposed OSRD Development that were located on the parcel of land prior to the OSRD Development application. For purposes of zoning compliance, buildings, structures or dwellings that will adhere to the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties will generally be presumed to maintain or promote such status.
- [10] The Community Planning Commission may issue building form guidelines to clarify the design standards listed in this subsection.

(b) Site Specific Design Standards.

- [1] Residential structures shall be oriented toward the street serving the premises and not the required parking area. When the Open Space Residential Development will include a mix of housing types, the developer shall seek to place single-family houses towards the perimeter of the site, especially where it abuts residentially zoned and occupied properties.
- [2] Mix of Housing Type. An Open Space Residential Development may utilize a combination of the permitted uses listed in § 200-50A, as follows. The Open Space Residential Development shall consist of a minimum of 50% single-family dwellings and up to a maximum percentage of the following housing types: 100% single-family dwellings, 50% two-family

townhouse dwellings and 25% multi-family townhouse dwellings [not to exceed four dwelling units per building]. The Community Planning Commission may waive this requirement and allow an increased percentage of two-family or multi-family housing types where it is determined that allowing such an increase will promote the goals of this bylaw.

- [3] Multifamily structures shall be sited and screened to minimize any potential negative visual impact on abutting single-family structures, both on and off site.
- [4] Parking. Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. Resident parking for multifamily structures shall be placed to the side or rear of the building, and the primary pedestrian/visitor entrance shall face the street. All parking areas with greater than 6 spaces shall be screened from view.
- [5] Buffer Areas. A buffer area of 50 feet shall be provided at the perimeter of the Open Space Residential Development boundary running the full length of the perimeter of the tract. The Community Planning Commission may also require a 50 foot buffer area in the following locations: a) certain resource areas on or adjacent to the parcel, such as ponds, wetlands, streams and riverfront areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes; and b) existing public ways. No vegetation in a designated buffer area may be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The buffer zone shall remain in its natural state except that trees or shrubs may be added to enhance the appearance of the buffer zone. Driveways necessary for access and egress to and from the tract may cross such buffer areas. The Community Planning Commission may waive this buffer requirement in these locations when it determines that a smaller buffer [or no buffer] will suffice to accomplish the objectives set forth herein. However, under no circumstances shall the Community Planning Commission be able to waive the 50-foot buffer requirement in its entirety for locations at the perimeter of the Open Space Residential Development tract where it abuts residentially zoned and occupied properties. In these locations, the buffer requirement may only be reduced to a 30-foot buffer, and it may not be eliminated.
- [6] Drainage. The Community Planning Commission shall encourage the use of "soft" (non-structural) natural stormwater management techniques (such as rain gardens and open grass and bio-retention swales) and other drainage techniques that do not create impervious surface and that enable infiltration where appropriate. Stormwater should be treated at the source to limit non-point source pollution. Water conservation measures, including but not limited to the use of rainwater retention systems, such as rain barrels and cisterns for water irrigation purposes, are also strongly encouraged.

- [7] Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan. The landscape plan shall not include invasive plant species and shall include species that are drought tolerant and provide habitat value. Native plant species are strongly encouraged. In-ground sprinkler systems are strongly discouraged.
 - [8] On-site Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, and recreation facilities [including parkland and open space]; walkways and bicycle paths shall also be provided to create pedestrian and bicycle links to off site land uses, including nearby key destinations (schools, neighborhood activity centers, recreational facilities) and existing or proposed segments of the Town's trail network.
 - [9] Signage and Parking for Trails and Passive Recreational Open Space. Signage denoting the entrance to open space used for passive recreation, resource preservation, agriculture or equestrian uses, historic preservation, outdoor education, park purposes, horticulture, forestry shall be provided. In addition, parking spaces for access to the Open Space shall be constructed and provided, and the parking space areas shall indicate the purpose of these parking spaces is for access to the Open Space.
 - [10] Disturbed areas. Not more than fifty percent (50%) of the total tract shall be disturbed areas. A disturbed area is any land not left in its natural vegetated state. The Community Planning Commission may allow a greater area of temporary disturbance to the extent it determines that doing so will substantially further the purposes and intent of this bylaw and otherwise be in the best interests of the community.
 - [11] Roadways. Developers shall balance the need to minimize the amount of paved surface on the site with the need to route roadways carefully in order to minimize environmental impact. Developers shall establish a right-of-way no greater than 50 feet. The Community Planning Commission will consider permitting reduction of roadway width or other Roadway Design Requirements (outlined in the Rules and Regulations Governing the Subdivision of Land) in order to reduce environmental impacts of the development, so long as the applicant demonstrates that such reduction will not decrease pedestrian and vehicular safety and or impeded access for emergency vehicles.
- (8) Decision. The Community Planning Commission shall take one of the following actions within 90 days of the close of the public hearing:
- (a) The Commission may approve an Open Space Residential Development special permit with any conditions, safeguards, and limitations, if it determines that the proposed Open Space Residential Development has less detrimental impact on the tract and further advances the interests of the community than a conventional subdivision plan for the tract, after considering the following factors:

- [1] The degree to which the conceptual design and layout of the proposed Open Space Residential Development preserves open space for conservation and recreation, protects natural features of the land, and achieves efficient provision of streets, utilities and other public services;
 - [2] The degree to which the Open Space Residential Development promotes permanent preservation of open space, agricultural land, forestry land, existing and proposed trails, natural resources including water bodies and wetlands, and historical and archeological resources;
 - [3] The degree to which the Open Space Residential Development achieves sustainable design through a more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
 - [4] The degree to which the Open Space Residential Development reduces the total amount of disturbance on the site;
 - [5] The degree to which the Open Space Residential Development furthers the goals and policies of the Town of North Reading Master Plan and Town of North Reading Open Space and Recreation Plan, as amended from time to time;
 - [6] Whether the proposed construction of housing, landscape and streetscape is in harmony with the overall architectural heritage and historic character of the Town of North Reading;
 - [7] The degree to which the Open Space Residential Development facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner than in a conventional subdivision;
 - [8] Whether the Concept Plan and its supporting narrative documentation complies with all sections of this Zoning Bylaw; and
 - [9] The degree to which the Open Space Residential Development furthers the purposes of this bylaw.
- (b) The Commission may deny a special permit upon finding that the application does not comply with the provisions of this bylaw.
 - (c) If the Commission finds that the proposed location is better suited for a conventional division of land, the Commission shall deny the Open Space Residential Development special permit and provide written authorization to the applicant to submit a conventional subdivision plan for six or more lots in accordance with the Rules and Regulations Governing the Subdivision of Land.
- (9) Effect of Special Permit Approval. Approval of the Open Space Residential Development special permit shall not be considered approval of any construction. The special permit is a preliminary approval, intended to give guidance to the applicant for the development of definitive subdivision plan or the site plan, and to determine whether the proposed concept meets the objectives of this bylaw. Any subdivision plan or site plan submitted for

approval following issuance of the Open Space Residential Development special permit shall substantially conform to the special permit and any conditions imposed therein by the Community Planning Commission.

- (10) Duration of Special Permit. The special permit shall lapse no later than two years from the date of issuance if substantial use or construction has not commenced by such date, except for good cause shown, and the applicant requests, before the date that the special permit would lapse, that the Community Planning Commission extend the special permit.

B. Open Space Residential Development Definitive Plan.

- (1) Following issuance of an Open Space Residential Development special permit under Subsection A above, the applicant shall submit one of the following to the Community Planning Commission for review and approval:
 - (a) A site plan under Article XVII of this bylaw, subject to the decision standards in Subsection B(2) below, where the proposed Open Space Residential Development does not constitute a subdivision; or
 - (b) A definitive subdivision plan under the Rules and Regulations Governing the Subdivision of Land.
- (2) Site Plan Decision. The Community Planning Commission shall make one of the following decisions in acting upon the site plan under § 200-98:
 - (a) The Commission may approve an Open Space Residential Development Site Plan only upon its determination that the plan substantially complies with the concept plan special permit and satisfactorily addresses all of the following criteria:
 - [1] Adequate access to each structure for public safety equipment and personnel;
 - [2] Adequate utility service and drainage, consistent where applicable with the North Reading Subdivision Regulations in effect at the time of the submission of the site plan;
 - [3] Adequate measures to reduce the volume of cut or fill, soil erosion, and visual intrusion of parking areas viewed from public ways or abutting properties;
 - [4] Protection of pedestrian and vehicular safety within the site and egressing from it; and
 - [5] Compliance with all the other requirements of the Zoning Bylaw.
 - (b) The Commission may disapprove an Open Space Residential Development Site Plan that does not substantially comply with the concept plan special permit. An Open Space Residential Development Site Plan will be considered not to comply substantially with the concept plan special permit if the Commission determines that any of the following conditions exist:

- [1] An increase in the number of buildings or dwelling units;
 - [2] A significant decrease in acres of open space;
 - [3] A significant change in the development layout which adversely affects natural landscape features and open space preservation;
 - [4] Significant changes to the stormwater management facilities approved as part of the special permit decision; and/or
 - [5] Significant changes in wastewater management systems.
- (c) The Commission may conditionally approve an Open Space Residential Development Site Plan that does not substantially comply with the concept plan special permit, provided that such conditional approval shall identify where the site plan does not substantially comply and/or contains significant changes from the approved Open Space Residential Development Special Permit; and shall require that the special permit be amended to be in compliance with the changes identified by the Commission.
- (3) Subdivision Plan. An Open Space Residential Development that involves a subdivision of land shall be submitted to the Community Planning Commission for approval under the Subdivision Control Law and the North Reading Rules and Regulations Governing the Subdivision of Land. The Commission's approval of an Open Space Residential Development special permit shall neither oblige the Commission to approve any related definitive plan nor substitute for such approval. The subdivision plan shall substantially comply with the Open Space Residential Development concept plan special permit.

§ 200-52. Severability.

If any portion of this bylaw is declared to be invalid, the remainder shall continue to be in full force and effect.

ARTICLE XI
Planned Unit Development

§ 200-53. Special permit required.

The Community Planning Commission may grant a special permit for the utilization of a tract of land in a Residential "E" (RE) District as a planned unit development subject to all requirements and conditions contained in this article.

§ 200-54. Definition. [Amended 10-23-1980 OTM by Art. 9, approved 1-8-1981]

A planned unit development is development of a tract of land for mixed use which land is developed as an entity by the landowner and which land is not subject to the Table of Dimensional and Density Regulations but which is governed instead by the requirements of this article.

§ 200-55. Purpose.

The particular intent of this article is to provide for a mixture of housing types at certain locations and in certain districts in the Town at somewhat greater densities than would normally be allowed in the district without detracting from the livability and aesthetic qualities of the environment, but, rather, encouraging:

- A. The general purpose of this Zoning Bylaw as contained in § 200-2;
- B. The preservation of open space and the promotion of more efficient use of the land in harmony with its natural features;
- C. A more creative approach to land development;
- D. Land use which is harmonious with the environment and which conserves natural resources and scenic qualities;
- E. The provision of more desirable, aesthetic and functional open space, both public and private and its efficient allocation, distribution, use and maintenance;
- F. Diversity and variety in the development pattern of the community;
- G. Better design and land planning resulting in economical and efficient street utility and public facility installation, construction and maintenance; and
- H. The development of real property values for the long-range future.

§ 200-56. Permitted uses.

The following uses shall be permitted:

- A. Residential (one-family and multi-family dwellings);
- B. Community facilities (religious or education institutions, charitable or philanthropic institutions, public utilities and service uses, public recreation or open space, hiking and riding trails);
- C. Commercial [retail or service establishment not exceeding five thousand (5,000) square feet in gross floor area]; and
- D. Appropriate accessory uses as allowed and regulated in § 200-36.

§ 200-57. Dimensional and density requirements.

For a proposed planned unit development not to be subject to the Table of Dimensional and Density Regulations of Article XII of this Zoning Bylaw, the following criteria must be met:

- A. Minimum area. The tract of land shall be at least one hundred (100) contiguous acres in single ownership.
- B. Provision of usable open space. At least twenty (20) percent of the total tract area shall be set aside as common land and shall consist of usable open space. At least seventy-five (75) percent of the usable open space shall be neither wetlands nor over five (5) percent slope land.
 - (1) For purposes of this article, the term "usable open space" shall mean the land area in a planned unit development to be used for scenic, landscaping or recreational purposes within the development and includes the following:
 - (a) Land area of the site not covered by buildings, parking facilities or accessory structures, except recreational structures; and
 - (b) Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.
 - (2) Usable open space shall not include:
 - (a) Proposed street rights-of-way;
 - (b) Open parking areas and driveways for the dwellings;
 - (c) Commercial areas and buildings, accessory buildings and parking and loading facilities therefore;
 - (d) Surface area of any pond or lake;

- (e) Required yards, setbacks, or other such dimensional requirements of this section; and
 - (f) Easements for above-ground utilities.
- C. Maximum residential density. The maximum residential net density for the planned unit development shall be one (1) dwelling unit per gross acre.
- D. Maximum land coverage. Not more than twenty (20) percent of the gross land area shall be covered by dwellings.
- E. Percentage of dwellings of one type. Not more than seventy (70) percent of the total number of dwelling units shall be of either single-family detached dwellings or multi-family dwellings.
- F. Dimensional requirements:
 - (1) Buildings shall be at least fifty (50) feet from any property line not coincident with a street line, at least twenty-five (25) feet from any street line or parking area, and at least twenty-four (24) feet apart, or apart by a distance at least equal to the sum of their heights, whichever is greater;
 - (2) The maximum allowable height shall be thirty-five (35) feet for all permitted uses;
 - (3) No building of more than thirty-five (35) feet shall be erected within one hundred and twenty-five (125) feet of any zoning boundary line of a planned unit development; and
 - (4) No commercial establishment shall exceed five thousand (5,000) square feet in gross floor area.
- G. Maximum percentage of commercial development. A maximum of five (5) percent of the total residential gross floor area at one time may be devoted to commercial gross floor area.

§ 200-58. Mandatory provisions of special permits.

- A. This special permit shall contain the following mandatory conditions with respect to common land:
 - (1) Insuring the continued existence of common land. Provisions shall be made so that all common land shall be:
 - (a) Restricted to recreational, agricultural, conservation and/or park uses;
 - (b) Open to such uses by at least the owners and occupants of the lots whom the common land is designed to serve; and
 - (c) Restricted so that no structure shall be erected thereon except as an incident to the above uses.

- (2) Insuring the maintenance of common land. The continued maintenance of common land shall be insured by one or more of the following methods:
 - (a) The sale of individual lots or parts of the planned unit development shall include in the deed a requirement obligating purchasers to participate in a homeowners' association and to support maintenance of the common land, accessible to the purchasers or their guests only, by paying assessments to the association. The organization of such homeowners' association shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.
 - (b) Public maintenance only after dedication in fee to the Town of North Reading of open space such as, but not limited to, parks, playgrounds, trails or public building sites. This shall not preclude the Town from refusing to accept such land subsequent to a report from the Community Planning Commission.
 - (c) In cases of cooperative ownership, management by a membership association. The organization of such membership club shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.
 - (d) In cases of rented property, the owner shall retain common land maintenance responsibilities.
 - (e) Leaseholds on lands under a single ownership, with common land maintenance provided for in the long-term lease.
- (3) Insuring the availability of common land. Common land shall have street access suitable for all occupants of dwelling units for whose use the space is intended.
- (4) Plan for insuring usable open space. Approval of the site plan shall also be conditioned on a provision for insuring the continued existence of common land in accordance with Subsection A(1), and for the maintenance of such land, the buildings thereon, and all other improvements pursuant to Subsection A(2). Such provision shall be the posting of an annual maintenance bond to cover the annual cost of such maintenance in the case of a single owner or the formation of an automatic homeowners' association with the obligation of maintenance, in the case of individual owners. The requirements regarding assessments and the filing of an annual report shall be the same as in Subsection A(2).

B. The special permit shall also include the following mandatory conditions:

- (1) Street acceptance. The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.
- (2) Construction in phases. If the planned unit development is to be constructed in phases, each phase after the first must be constructed contiguous and adjacent to a preceding phase or phases. Phases separated by streets or ways shall be considered contiguous. A deviation of thirty-three (33) percent from the required amount of open space in any phase may be permitted if that deviation is fully restored in the next constructed phase.

- (3) Circulation. Within the planned unit development, vehicular and pedestrian circulation shall be provided in accordance with the rules and regulations of the Community Planning Commission.
- (4) Environmental compatibility. The plan for a planned unit development shall preserve a unified and organized arrangement of buildings and service facilities and improvements, such as landscaping, fencing, screening and buffering, to insure compatibility with adjacent development, and to insure conformance with the regulations in § 200-87.
- (5) Boundary fencing. No perimeter security fencing, walls or similar barriers to prevent access to and egress from the planned unit development shall be erected.

§ 200-59. Site plan requirements.

Any application for a special permit for a planned unit development shall be accompanied by a site plan depicting the land to be affected. In addition to complying with the minimum site plan requirements of § 200-28D, the site plan shall conform to the following specifications.

- A. The plan shall indicate reasonable periods for the phasing of the development and the reasonable time of completion of each phase and include hydrological, soil and subsurface studies evaluating the site for development;
- B. Accompanying each copy of the plan shall be a typical architectural plan showing the types of buildings, preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, general appearance and number of dwelling units. Perspective drawings of the development may be required. The architectural plan hereby required may be varied during construction provided that the Community Planning Commission finds the new architectural plan to be compatible with previous construction.
- C. The applicant shall submit a general circulation plan indicating the proposed movement and relative volumes of vehicles, goods and pedestrians within the area and to and from public thoroughfares;
- D. The applicant shall also submit a plan drawn to scale and showing any areas proposed to be dedicated or reserved for interior circulation, public parks, school sites, public buildings or otherwise dedicated or reserved and usable open spaces to which development rights are proposed to be dedicated to private groups or to the public; and
- E. Accompanying each copy of the site plan shall be:
 - (1) Tables showing the total number of acres and their distribution by use, the percentage designated for each dwelling type and for non-residential uses, including off-street parking, streets, parks, playgrounds, schools and usable open space;
 - (2) Tables showing the overall density of proposed residential development and showing density by dwelling types; and
 - (3) Tables showing the total commercial gross floor area and showing how such total commercial gross floor area relates, as a percentage, to the total residential gross floor area.

§ 200-60. Application of Subdivision Control Law.

Approval by the Community Planning Commission of the site plan shall not constitute approval under the Subdivision Control Law for those portions of the tract which are governed by the Rules and Regulations Governing the Subdivision of Land for the Town of North Reading, dated March 20, 1973, and as revised.⁵

ARTICLE XII

⁵ Editor's Note: See Ch. 350, Subdivision of Land.

Dimensional and Density Regulations

§ 200-61. Table of Dimensional and Density Regulations.⁶

The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum front yard, minimum side yard, minimum rear yard, maximum height of buildings, maximum number of stories, maximum building area and minimum open space shall be as set forth in the Table of Dimensional and Density Regulations.

§ 200-62. Exceptions.

A fence, wall or other enclosure is not regulated except as otherwise provided herein. The Table of Dimensional and Density Regulations shall not apply to fences, walls or other enclosures or to utility poles.

§ 200-63. Accessory structures.

In residential, industrial and business districts a detached accessory structure shall conform to the following provisions: it shall not occupy more than twenty-five (25) percent of the required rear yard; it shall not be less than twenty (20) feet from the front street line or less than ten (10) feet from any other lot line; and it shall not exceed twenty (20) feet in height.

§ 200-64. Screening and buffers.

- A. Screening or buffers shall be required, erected and properly maintained in order to be environmentally protective according to the regulations set forth in § 200-87, to provide for safety, to attenuate noise and to conceal business, industrial, agricultural or public uses of land and buildings when such uses abut the side or rear lot of any property in any residential district or any residential property in any other district.
- B. Screening shall consist of a strip of land, natural or landscaped, equal in width at least to the minimum side yard requirement. It shall contain a screen of plantings of vertical habit planted so as to provide a dense strip not less than three (3) feet in width and not less than eight (8) feet in height at the time of occupancy of such lot. The quality of denseness shall begin at or near ground level and continue to the required height. Individual trees and shrubs shall not be planted more than three (3) feet on center and shall thereafter be maintained by the owner or agent so as to maintain a dense screen year-round. At least fifty (50) percent of the plantings shall consist of evergreens and they shall be evenly spaced along the full length of the screened section.
- C. Upon an application for a special permit, the Zoning Board of Appeals may allow alternate forms

⁶ **Editor's Note:**

The Table of Dimensional and Density Regulations is included at the end of this chapter.

of screening such as a solid wall or fence complemented by suitable plantings and not exceeding six (6) feet in height, provided, however, that any such special permit shall contain conditions consistent with the intent of this section.

D. Screening shall be required for the following uses:

- (1) All outdoor areas or facilities for the storage of fuel, material, products or utility installations;
- (2) Any principal use not conducted wholly within a building;
- (3) Any service yard, outdoor storage or utility installation required by a governmental service facility or public utility; and
- (4) Any refuse disposal system such as but not limited to a dumpster, not wholly or partly contained in a building.

E. Buffering shall meet all the requirements, makeup and conditions of screening except that it shall contain a screen of plantings of vertical habit planted so as to provide a dense strip not less than ten (10) feet in width.

F. Buffering shall be required for the following uses:

- (1) Any required off-street parking or loading area, except for off-street parking required to serve a single-family dwelling;
- (2) Any commercial parking lot;
- (3) Any lubrication, washing, repairing, storage or disposal not conducted entirely within a building at a service station;
- (4) Any industrial building use or required parking and loading areas in an industrial district within three hundred (300) feet of any adjoining residence district;
- (5) Any special permit use except when such use is specifically exempted by the Zoning Board of Appeals; and
- (6) Any multi-family dwelling, except those contained in a planned unit development, and its attendant uses when it abuts the side or rear lot lines of any single-family residence.

G. Barbed wire shall not be installed as part of any screening or buffering, including alternate forms of screening as provided for under Subsection C, unless deemed necessary by the Building Inspector for public safety. **[Added 10-1-1984 OTM by Art. 10, approved 1-11-1985]**

§ 200-65. Additional regulations.

In addition to the regulations in § 200-61 through 200-64 and the Table of Dimensional and Density Regulations, the following regulations shall apply:

- A. The minimum distance between principal buildings shall be twice the minimum side yard or side setback required in the district but no less than the sum of the heights of the buildings;
- B. A corner lot shall have minimum front yards with depths which shall be the same as the required front yards for the adjoining lots. No structure, fence or planting shall be placed or maintained between a plane two and one-half (2 1/2) feet above the curb level and a plane seven (7) feet above the curb level so as to interfere with the traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such line twenty-five (25) feet from the intersection of said lot lines or extension thereof;
- C. On a through lot, there shall be a front yard setback depth required which is equal to the front yard depth required for the district in which each street frontage is located;
- D. The following projections into required yards or other required open spaces are permitted subject to the following stated limitations:
 - (1) Balcony or bay window, limited in total length to one-half (1/2) the length of the building and not projecting more than two (2) feet;
 - (2) Open terrace or steps or stoop, under four (4) feet in height, as much as one-half (1/2) the required yard setback; and
 - (3) Steps or stoop over four (4) feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features not projecting more than two (2) feet.
- E. The provisions of this Zoning Bylaw governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts and other necessary appurtenances usually carried above roofline, nor domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than twenty (20) percent of the ground floor area of the building, nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae and other like structures, which do not occupy more than twenty (20) percent of the lot area;
- F. The maximum gross floor area for a building in an LB District shall be ten thousand (10,000) square feet;
- G. Yard and setback requirements shall not apply to fences, hedges or walls not over seven (7) feet high measured from finished grade;
- H. Any gasoline or oil facilities shall be at least twenty-five (25) feet from any lot line; and
- I. Any swimming pool or enclosure for animals shall be at least ten (10) feet from any lot line.

§ 200-66. Reduction of lot or yard areas.

The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provision of this Zoning Bylaw, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this Zoning Bylaw if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

§ 200-67. Limited frontage lots. [Added 10-10-1985 OTM by Art. 18, approved 2-4-1986]

In all residential districts limited frontage lots may be permitted provided the following safeguards and conditions for each particular site are established at the time of an application for a building permit and are approved by the Building Inspector:

- A. Each limited frontage lot in the Residential A, C, E and R Districts shall contain a minimum area of one hundred twenty thousand (120,000) square feet.
- B. Each limited frontage lot in the Residential D District shall contain a minimum area of two hundred thousand (200,000) square feet.
- C. Each limited frontage lot in the Residential B District shall contain a minimum area of sixty thousand (60,000) square feet.
- D. Each limited frontage lot in a residential district shall have a minimum continuous lot frontage of fifty (50) feet on a street, and if a corner lot, the frontage shall be measured by only one (1) front lot line. In addition, such lot shall have a width of not less than fifty (50) feet at any point between the street and the site of the dwelling or the proposed dwelling.
- E. No more than two (2) limited frontage lots shall have contiguous frontages.
- F. Each limited frontage lot shall contain an area in the following respective residential districts within the prescribed minimum diameter circle which shall include a compact area of buildable land suitable for the site of a dwelling and its accompanying septic system.

District	Minimum Diameter Circle (feet)
Residence A, C, E and R	250
Residence B	200
Residence D	300

- G. The setback requirements for a principal use on a limited frontage lot for each residential district shall be the same as those set forth in the Table of Dimensional and Density Regulations of this Zoning Bylaw except that in no case shall a dwelling be located closer to any lot line than the minimum setback required for that district.
- H. The setback requirements for an accessory use on a limited frontage lot for each residential district

shall be the same as those set forth in this article of this Zoning Bylaw except that in no case shall any accessory use be located closer to any lot line than the minimum setback required for that district.

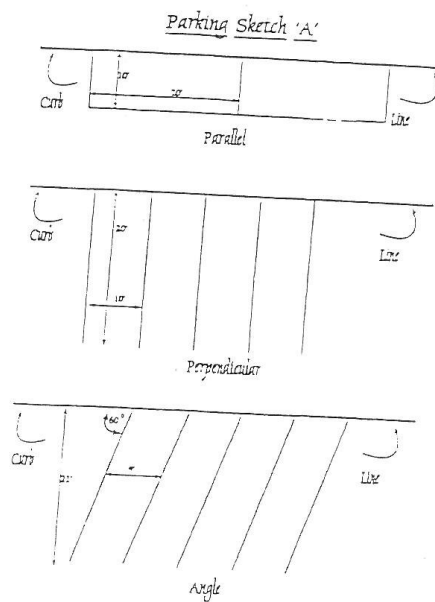
- I. Any subsequent subdivision of a limited frontage lot shall be under the Subdivision Rules and Regulations of the Community Planning Commission.⁷
- J. The maximum length of driveway serving the dwelling site on a limited frontage lot shall not be (except as described in the next sentence), greater than one thousand (1,000) feet measured from the side line of the street on which the lot has legal frontage to the front building line of the dwelling. Any driveway in excess of one thousand (1,000) feet shall require a special permit by the Board of Appeals which shall be governed by the provisions of Article VI of this Zoning Bylaw and in addition, the Fire Chief's recommendations shall be incorporated into said special permit.
- K. The existence of a dwelling on a limited frontage lot shall be clearly identified at the entrance of the driveway from the street on which the lot fronts and the identification sign shall be so located, sized and lighted to be visible at any time of day or night from the street for emergency service and all other vehicles.
- L. All information and plans submitted with an application for a limited frontage lot shall be drawn and endorsed by a registered land surveyor and registered professional engineer.
- M. A copy of each application for a limited frontage lot accompanied by all supporting documentation shall be forwarded by the Building Inspector to the Community Planning Commission, the Fire Department and the Police Department for review and recommendations; said review and report to the Building Inspector to be made within thirty (30) days of the date of referral. In the review process due consideration shall be given to the following:
 - (1) That the limited frontage lot does not utilize or block any possible future access into any back land; and
 - (2) That the proposed driveway access to the dwelling on the lot is adequate for public safety, welfare and convenience.

⁷Editor's Note: See Ch. 350, Subdivision of Land.

- I. Any entrance or exit driveway shall not exceed twenty-four (24) feet in width at its intersection with the front lot line except for automotive service stations, in which case the width may be increased to forty (40) feet.

~ 200-75. Exceptions.

- A. The Zoning Board of Appeals may, by special permit, allow the substitution of space within municipal parking lots in lieu of the parking requirements of this article, provided they are located within one thousand (1,000) feet of the building or use which is intended to be served.
- B. The Zoning Board of Appeals may grant a special permit to allow the reduction of the parking space requirements to eighty (80) percent of that required in the Table of Off-Street Parking and Loading Requirements where conditions unique to the use will reasonably justify such a reduction.



Town of North Reading
Table of Dimensional and Density Regulations
[Amended 10-4-1984 ATM by Art. 14, approved 1-8-1985, 10-8-1987, ATM by Art. 19,
approved 12-3-1987, 10-17-1991, ATM by Art. 22, approved 2-4-1992;
10-5-1995 ATM by Art. 35, approved 11-22-1995]

District	Use	Minimum Lot Area (sq. feet)	Minimum Continuous Lot Frontage (feet)	Minimum Yards (feet)			Max. Height (feet)	Max. Stories	Max. Building Area (%)	Min. Open Space (%)
				Front	Side	Rear				
RA	Any permitted use	40,000	160	40	25	50	35	2.5	20	60
RR	Any permitted use	40,000	160	40	25	50	35	2.5	20	60
RB	Any permitted use	20,000	125	25	20	24	35	2.5	20	60
RD	Any permitted use	120,000	160	40	25	50	35	2.5	20	60
RE	Planned unit development	100 acres	See Art. XI							
RE	Any other permitted use	40,000	160	40	25	50	35	2.5	20	60
RM	Multi-family residential	40,000	See Art. XV							
LB	Any permitted use	20,000	125	25	20	20	35	2.5	None	10
GB	Any permitted use	20,000	125	25	20	20	35	2.5	None	10
HB	Any permitted use	20,000	See Art. VIII							
IA	Any permitted use	40,000	160	40	25	50	40	4	40	20
IB	Any permitted use	40,000	160	40	25	50	40	4	40	20
IC	Any permitted use	40,000	160	40	25	50	40	4	40	20
I/O-1	Any permitted use	40,000	See Art. VIII							

NOTES:

Areas which are designated as floodplain or wetland are subject to the dimensional and density regulations of the district in which they are located and to the special provisions and conditions of § 200-44.

ARTICLE XIII
Off-Street Parking and Loading

§ 200-68. Applicability.

After the effective date of this Zoning Bylaw, off-street parking and loading spaces shall be provided for every new building, the enlargement of an existing building, the development of a new land use or any change in an existing use in its entirety in accordance with the Table of Off-Street Parking and Loading Requirements. These regulations shall be considered additive.

§ 200-69. Table of Off-Street Parking and Loading Requirements.

A. Off-street parking requirements.

Use		Minimum Number of Off-Street Parking Spaces Per Unit
1.	Dwelling, single	Two (2) per unit
2.	Dwelling, multi-family	Two (2) per dwelling unit
3.	Theater, restaurant, gymnasium, stadium, auditorium, church or similar place of public assembly with seating facilities	One (1) for each four (4) seats of seating capacity
4.	Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor, which are unusually extensive in relation to customer traffic	One (1) per one thousand (1,000) square feet of gross floor space. In the case of outdoor display areas, one for each one thousand (1,000) square feet of lot area in such use.
5.	Hotel, motel, tourist court or lodging house	One (1) for each sleeping room
6.	Other retail, service, finance, insurance or real estate establishments	One (1) per each three hundred (300) square feet of gross floor space
7.	Wholesale establishment, warehouse or storage establishment	One (1) per each one thousand (1,000) square feet of gross floor space

8.	Manufacturing or industrial establishment	One (1) per each six hundred (600) square feet of gross floor space or 0.75 per each employee of the combined employment of the two (2) largest successive shifts, whichever is larger
9.	Hospital	Two (2) per bed at design capacity
10.	Nursing home	One (1) per bed at design capacity
11.	Business, trade or industrial school, college or university	One (1) for each two hundred (200) square feet of gross floor area in classrooms and other teaching stations, plus space for gymnasium or auditorium, whichever has the larger seating capacity
12.	Other school	Two (2) per classroom in an elementary and junior high school; four (4) per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger seating capacity
13.	Community facility (town building, recreation, etc.)	One (1) per each four hundred (400) square feet of gross floor space
14.	Public utility	One (1) for each four hundred (400) square feet of gross floor area devoted to office use
15.	Transportation terminal establishment	One (1) for each eight hundred (800) square feet of gross floor area per other use
16.	Mixed use	One (1) for each six hundred (600) square feet of gross floor area. Sum of various uses computed separately.

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| 17. | Any use permitted by this Zoning Bylaw not interpreted to be covered | Closest similar use as shall be determined by the Zoning Board of Appeals |
|-----|--|---|

B. Loading requirements.

Use	Minimum Loading Spaces
1. Retail trade, manufacturing and hospital establishment with over five thousand (5,000) square feet of gross floor area	One (1) per twenty thousand (20,000) square feet or fraction thereof of gross floor area up to two (2) spaces; one (1) additional space for each sixty thousand (60,000) square feet or fraction thereof of gross floor area over forty thousand (40,000) square feet; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements
2. Business services, other services, community facility (school, church, town building, recreation, etc.) or public utility establishment with over five thousand (5,000) square feet of gross floor area	As above except one (1) additional space for each two hundred thousand (200,000) square feet or fraction thereof of gross floor area over one hundred fifty thousand (150,000) square feet

§ 200-70. Computation of spaces.

When the computation of required parking or loading results in the requirement of a fractional space, any fraction over one-half (1/2) shall require one (1) space.

§ 200-71. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this Zoning Bylaw shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of § 200-69.

§ 200-72. Spaces acquired by town.

Required off-street parking or loading spaces which, after development of the lot, are later acquired by the Town, for off-street parking or loading purposes, shall continue to be applied towards the requirements of this article for the use of the lot.

§ 200-73. Location of loading spaces.

The loading spaces required for the uses listed in the Table of Off-Street Parking and Loading Requirements, pursuant to § 200-69, shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Zoning Bylaw.

§ 200-74. Parking and loading space standards.

All parking and loading areas containing over five (5) parking or loading spaces shall be either contained within structures or subject to the following:

- A. The area shall be effectively screened with suitable planting or ornamental fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any R District (see also § 200-64);
- B. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices;
- C. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks;
- D. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes;
- E. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of construction operations pursuant to a building permit;
- F. Parking shall not be located within applicable setback requirements in any district except for single-family residence use. Exception: Parking may be permitted within the side and rear setback areas in the Highway Business District subject to specific site plan approval by the Community Planning Commission or Zoning Board of Appeals, whichever is acting as the permit granting authority. [Amended 10-3-1994 OTM by Art. 21, approved 1-18-1995]
- G. Any portion of any entrance or exit driveway shall not be closer than fifty (50) feet to the curbline of an intersecting street;
- H. Any two (2) driveways leading to or from a street, or to or from a single lot shall not be within thirty (30) feet of each other at their intersections with the front lot line for an interior lot and forty (40) feet for a corner lot; and

- I. Any entrance or exit driveway shall not exceed twenty-four (24) feet in width at its intersection with the front lot line except for automotive service stations, in which case the width may be increased to forty (40) feet.

§ 200-75. Exceptions.

- A. The Zoning Board of Appeals may, by special permit, allow the substitution of space within municipal parking lots in lieu of the parking requirements of this article, provided they are located within one thousand (1,000) feet of the building or use which is intended to be served.
- B. The Zoning Board of Appeals may grant a special permit to allow the reduction of the parking space requirements to eighty (80) percent of that required in the Table of Off-Street Parking and Loading Requirements where conditions unique to the use will reasonably justify such a reduction.

ARTICLE XIV
Signs

[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979; 10-17-1991 OTM by Art. 21, approved 2-4-1992; 4-4-1994 ATM by Art. 18, approved 7-26-1994; 10-3-1994 OTM by Art. 22, approved 1-18-1995]

§ 200-76. Purpose.

The sign regulation section is designed to provide standards for the installation of signs so as to further the objectives of the Master Plan; promote the general welfare of the community; protect public health, safety and welfare; reduce traffic hazards; protect property values; and promote economic development. This is accomplished by encouraging the creation of an aesthetic appearance throughout the Town, through the use of attractive and appropriate signing.

§ 200-77. Definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

ADDRESS SIGN -- A sign consisting of numerals and letters identifying a property address.

ADVERTISING COPY -- Copy that includes, but is not limited to phone numbers, prices, announcements of sales, business hours, meeting times, individual or specific products or merchandise, and directional information. A business name and street address are not considered advertising copy.

ADVERTISING SIGN -- A sign which includes advertising copy and/or graphics relating to any service, product, person, business, place, activity or organization in addition to simple identification.

AWNING/CANOPY SIGN -- A sign which is printed, painted, or affixed to an awning or canopy.

BANNER SIGN -- A sign which is painted or displayed upon cloth or other flexible material.

BILLBOARD -- An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign and that is subject to the provisions of Massachusetts General Laws Chapter 93, Sections 29-33 or Massachusetts General Laws Chapter 93D.

FASCIA SIGN -- A sign which is permanently affixed to the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.

FLAG-MOUNTED SIGN -- A sign which projects from the roof or wall of a building perpendicular to a wall surface.

FREESTANDING SIGN -- A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

IDENTIFICATION SIGN -- A sign that includes as copy only the name of the business, place, organization, building, or person it identifies.

ILLUMINATED EXTERNALLY SIGN -- Sign where the source of the illumination is outside the sign and light is reflected off the surface of the sign.

ILLUMINATED INTERNALLY SIGN -- Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

- A. Are filled with neon or some other gas that glows when an electric current passes through it; and
- B. Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

ILLUMINATED SIGN -- A sign whose surface is lighted, internally or externally, and which identifies, advertises or attracts attention to a use or activity on the premises.

MASTER SIGNAGE PLAN -- A detailed description, including, but not limited to number, type, size, color, and location of all signage.

MULTI-TENANT SIGN -- A sign that includes as copy, only the names of two (2) or more businesses, places, organizations, buildings or persons it identifies.

NONCONFORMING SIGN -- A sign lawfully erected prior to July 28, 1994 which does not conform to all of the requirements of this bylaw.

OFF-PREMISES SIGN -- A sign that is not located on the premises that it advertises or identifies.

ON-PREMISES SIGN -- A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

POLITICAL SIGN -- Election campaign signs.

READER BOARD SIGN -- A permanent sign where the lettering is designed to be changed.

ROOF-MOUNTED SIGN -- A sign which projects above the highest point of the roofline, parapet or fascia of a building.

SIGN:

- A. Any permanent or temporary structure or device providing identification, advertising or directional information, or which is designed to attract the eye by intermittent repeated motion or illumination, for a specific business, service, product, person, organization, place or building.
- B. Included in this definition of signs are graphic devices such as logos, attention attracting media such as logo sculpture and obtrusive colored fascia or architectural elements, banners, balloons, streamers, search lights, strobe lights, flags, inflatable structures, merchandise displays, accessory lights and other attention attracting media and devices.

SOFFITT SIGN -- A sign which is suspended from the underside of a lintel, arch or other overhead spanning member and is hung perpendicular to a vertical wall surface.

TEMPORARY SIGN -- Any outdoor sign, banner, pennant, valance or advertising display constructed of paper, cloth, canvas, fabric, cardboard, wallboard or other light material with or without frames not permanently affixed to any structure on a site or permanently ground mounted.

WALL MOUNTED SIGN -- A sign which is permanently affixed to any vertical portion of a building for which the sign is intended to identify or advertise.

WINDOW SIGN -- A sign or signage placed in windows so as to attract the attention of persons outside of the building where such sign or signage is placed.

§ 200-78. Sign height and area.

- A. Sign height.
 - (1) Freestanding sign. Height shall be measured as the distance from the top of the sign structure to the top of curb, or crown of road if no curb exists. The height of any structure erected to support or ornament the sign shall be measured as part of the sign height.
 - (2) Wall or fascia mounted sign. Height shall be measured as the distance from the top of the sign structure to the top of the curb, or crown of road if no curb exists.
- B. Sign area.
 - (1) For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
 - (2) For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle or circle which encompasses all of the letters, design and symbols.

- (3) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any backing different in color or material from the finish material of the building face.
- (4) Where there are a number of sign faces on a sign:
 - (a) One (1): Area of the single face only.
 - (b) Two (2): If the interior angle between the two (2) faces is forty-five (45) degrees or less, the area will be the area of one (1) face only; if the angle between the two (2) sign faces is greater than forty-five (45) degrees, the sign area will be the sum of the areas of the two (2) faces.
 - (c) Three (3) or more sides: The sign area will be the sum of the areas of each of the faces.
- (5) Spherical, free-form, sculptural, other non-planar signs. Sign area will be the sum of the areas using only the four (4) vertical sides of the smallest cube that will encompass the sign.

§ 200-79. Permit requirements.

- A. Sign permit required. Except as provided in Subsection B, no sign shall be erected unless a sign permit has been issued by the Building Inspector. No sign permit shall be issued unless the Building Inspector has first determined that the applicant has obtained all applicable special permits and/or site plan approvals for the development and use of the property for which the sign is intended.
- B. Signs not requiring a permit. The following types of signs shall be authorized by right without the necessity of a permit:
 - (1) Signs bearing the name of the occupant of a dwelling, not to exceed two (2) square feet in area;
 - (2) Real estate signs, located on-site, not to exceed six (6) square feet in area in a residential district or twenty (20) square feet in a business or industrial district. Such signs shall be removed forthwith upon sale or rental of the premises advertised;
 - (3) Signs accessory to the use of the premises by a religious, non-profit or educational institution, or by a governmental authority, not to exceed sixteen (16) square feet in area;
 - (4) Street name signs and signs erected by the Town, County or Commonwealth for the direction and control of traffic;
 - (5) Signs on or adjacent to the entry of a multiple occupancy building listing the occupants thereof, provided that the size of such sign shall not exceed one (1) square foot for each occupant or a total of twenty (20) square feet, whichever is smaller and provided further that there shall be only one (1) such sign per building;

- (6) Signs designating historical places or points of interest, erected by governmental authority or by a duly chartered historical association, or the like, not to exceed (6) square feet in area;
- (7) Signs indicating "Entrance," "Exit," "Parking" or the like, erected on a premises for the direction of persons or vehicles not to exceed two (2) square feet in area. Such signs shall not carry the name of the business or any product;
- (8) One (1) contractor's sign not exceeding twelve (12) square feet in area maintained on the premises while construction is in progress and containing information relative to the project. Such signs shall be set back at least (15) feet from the street lot line and shall be removed promptly after the completion of construction;
- (9) One (1) identification sign not exceeding twelve (12) square feet at any public entrance to a subdivision or multi-family development;
- (10) Political signs not exceeding sixteen (16) square feet provided that such signs are placed on private property and do not create a safety hazard. Such signs shall be removed not later than seven (7) days after the election;
- (11) One (1) sign not to exceed six (6) square feet in area designating an official motor vehicle inspection station and located at the Building Inspector's discretion so as not to create a safety hazard.
- (12) Temporary yard sale signs and real estate "open house" signs for a period of time not to exceed forty-eight (48) hours.
- (13) Temporary "grand opening" signs not to exceed forty (40) square feet and for a period of time not to exceed fourteen (14) days.

§ 200-80. Prohibited signs.

Except as provided in § 200-81, signs that are not specifically authorized are expressly prohibited. These prohibited signs include, but are not limited to the following:

- A. Moving or flashing signs; signs illuminated by or including any flashing or oscillating light; electronic billboards and reader boards; strings of pennants or so-called "whirlygigs" and the like. A sign which is designed, for structural reasons, to align itself with the direction of the wind shall not be considered a moving sign. Flashing or animated signs of any color shall not be permitted;
- B. All portable signs, except as otherwise provided. Portable signs shall include, but are not limited to, signs which are mounted, attached, or painted on trailers, boats or vehicles when used as additional signage on or near the business premises. Business vehicles displaying signage or advertising shall be parked in an assigned parking space which is not immediately adjacent to a street frontage;
- C. Temporary signs except as provided in § 200-79B;
- D. More than two (2) exterior permanent signs for any one (1) business or industrial establishment or residential premises;

- E. More than one (1) freestanding sign;
- F. All signs mounted on, or applied to trees, utility poles, rocks, or town owned property, except as otherwise provided;
- G. All banners, pennants, streamers, balloons, flags, search lights, strobe lights, beacons, inflatable signs, except as otherwise provided;
- H. Service or bay door mounted sign banners or advertising;
- I. Any sign imitating or obscuring an official traffic control sign or signal;
- J. Any sign placed on private property without the property owner's written approval;
- K. Any non-public signs in a public right-of-way or on public property, except approved banner signs installed pursuant to the North Reading Banner Program Guidelines. Further, the Town may install signs on its own property to identify public buildings and uses, and to provide necessary traffic control. Any non-public sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation.
- L. Billboards or other off-premises signs;
- M. Roof signs;
- N. **[Amended 4-7-2008 ATM by Art. 25, approved 6-27-2008]** Neon signs, or other direct-lighted signs are not permitted in residential districts and the local business and general business zoning districts.
- O. **[Amended 4-7-2008 ATM by Art. 24, approved 6-27-2008]** Internally and externally illuminated signs wherein such sign shall have any animation, flashing or intermittent image or illumination that includes an electronic, video, fixed, floating or moving text and/or picture that includes, but is not limited to the use of television, plasma, digital screens and/or light emitting diodes, liquid crystal displays, fiber optics, holography or hologram displays; other than those erected by a public entity for public safety and/or traffic control purposes.

§ 200-81. Signs in business and industrial districts.

- A. The following signs shall be permitted in business and industrial districts provided a permit is obtained from the Building Inspector pursuant to § 200-79A.
 - (1) Wall sign. Each sign shall be attached in its entirety and parallel to any wall of a building. No such sign shall project horizontally more than fifteen (15) inches from said wall or beyond the roof or sidewall lines. The surface area of the sign shall not aggregate more than ten (10) percent of the area of the wall on which it is displayed, or one-hundred fifty (150) square feet, whichever is the lesser;
 - (2) Projecting signs. Each sign shall be attached to any wall of the building. Such sign shall be set back a minimum of fifteen (15) feet from the street lot line. Projecting signs shall not exceed forty (40) square feet; and
 - (3) Freestanding signs. No freestanding sign shall exceed forty (40) square feet in surface area.

No portion of such sign shall be set back less than twenty (20) feet from any street curbline or fifteen (15) feet from any front property line where no curb exists. The top of the sign shall not be more than twenty-five (25) feet in height.

- B. Shopping or business centers. For the purposes of this section, this shall mean any number of businesses greater than one (1) which share the same lot using common points of ingress and egress, and/or common parking facilities. Such centers shall be bound by the following restrictions on signs:

(1) Master signage plan.

- (a) For any center in which the business owner proposes to erect one (1) or more signs requiring a permit, the property owner at his/her option, may submit for special permit approval by the Community Planning Commission, a master signage plan specifying the standards for consistency among all signs in the center subject to and containing the following:
 - [1] An accurate plot plan of the lot(s) at such scale as the Community Planning Commission may reasonably require;
 - [2] Location of buildings, parking lots, driveways, and landscaped areas;
 - [3] Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this bylaw;
 - [4] An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not;
 - [5] Signage details to include: color scheme, lettering or graphic style, lighting, location of each sign on the buildings, material and sign proportions;
 - [6] Other provisions: The master signage plan may contain such other restrictions as the owners of the lots may reasonably determine.
- (b) Any center with an approved master signage plan conforming with the provisions of this section may be permitted up to a twenty-five-percent increase in the maximum total sign area. This bonus may be allocated within the center as the owner elects. This bonus is subject to a special permit pursuant to § 200-84.
- (c) Amendment. A master signage plan may be amended by filing a new master signage plan that conforms with all requirements of the ordinance then in effect.
- (d) Existing signs not conforming to master signage plan. If any new or amended signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance within three (3) years all signs not conforming to the proposed amended plan or to the requirements of this bylaw in effect on the date of submission.

- (e) Binding effect. After approval of a master signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this bylaw. In case of any conflict between the provisions of such a plan and any other provision of this bylaw, the bylaw shall control.
- (2) There may be one (1) wall or freestanding multi-tenant sign facing each street on which the premises have frontage, identifying the plaza or center name and the names of individual businesses, such signs having a maximum size of forty (40) square feet.
- (3) In addition, each individual business within the plaza or shopping center shall be allowed a wall sign having a total sign area not to exceed fifteen (15) percent of the wall area assigned to that business or one hundred fifty (150) square feet, whichever is less. Each sign shall be attached in its entirety and shall be parallel to the wall of the building. No such sign shall project horizontally more than fifteen (15) inches from said wall or beyond the roof or sidewall lines.

§ 200-82. Business signs in residential districts.

In addition to the signs permitted pursuant to § 200-79, signs accessory to nonconforming business or commercial uses and not exceeding ten (10) square feet shall be permitted in residential districts provided a permit is obtained from the Building Inspector.

§ 200-83. Nonconforming signs.

- A. Any nonconforming sign, except a billboard, legally erected prior to the adoption of this section, or any amendment thereof, may continue to be maintained, provided that no such sign shall be redesigned, replaced or altered in any way or manner whatsoever unless in conformity with all the provisions of this Zoning Bylaw.
- B. Any nonconforming sign shall be removed if the sign:
 - (1) Advertises or calls attention to any product, business or activity which has not been traded, carried on, sold or dealt with at the particular premises for at least sixty (60) days; and
 - (2) Has not been repaired or properly maintained within sixty (60) days after notice of disrepair has been given by the Building Inspector.
- C. Any nonconforming sign which is destroyed, damaged or otherwise made unusable, shall be repaired, rebuilt or altered only in conformity with this article.

§ 200-84. Standards for granting special permits.

All applications for special permits shall be subject to site plan review.

- A. In reviewing applications for special permits pursuant to this article, the Community Planning Commission shall apply the following standards:

- (1) The sign(s) will not cause visual confusion, glare or offensive lighting in the neighborhood;
 - (2) The sign(s) will not be a detriment to the surrounding area;
 - (3) The sign(s) will not significantly alter the character of the zoning district;
 - (4) The sign(s) will not interfere with traffic safety in the area;
 - (5) Each sign shall be considered on its own merits and shall not be considered a precedent;
 - (6) The sign(s) conform to the provisions of any valid master signage plan;
 - (7) All zoning nonconformities and general bylaw violations must be removed or corrected.
- B. The CPC may impose any reasonable conditions on any special permit issued pursuant to this article.
- C. **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]** Where a sign in a Priority Development Site requires a special permit under this article, the sign application shall be incorporated within the special permit application submitted to the Community Planning commission under §200-28(B).

§ 200-85. Sign content; maintenance.

- A. Protection of First Amendment rights. Any sign permitted under this article may, in lieu of any specified copy, contain any otherwise lawful, noncommercial message that does not direct attention to a business or to a service or commodity for sale.
- B. Maintenance. Every permanent sign, including any sign exempted from the permit requirements of this article shall be maintained in good structural condition and shall be kept painted and/or clean at all times. The Building Inspector shall have the authority to order the repair or removal of signs which have become dilapidated or which, in his opinion, constitute a physical hazard to public safety.

§ 200-86. Exemptions by special permit.

In business and industrial districts, for lots having frontage of not less than three hundred (300) feet, having area of not less than six (6) acres, the following provisions may be varied by special permit of the Community Planning Commission, provided that the sign in question will be used in connection with one (1) or more commercial buildings on the premises having a total of not less than twenty-five thousand (25,000) square feet of floor space:

- A. Setback requirements;
- B. Number of signs. The number of signs allowed in business and industrial districts may be increased provided that the total area of the signs does not exceed the following:
- (1) Freestanding signs may not exceed a total of one-half (1/2) square foot per foot of lot frontage; and

- (2) Wall and roof signs may not exceed twenty (20) percent of front wall area.
- C. Size of sign. The area of freestanding and wall signs in business and industrial districts may be increased as follows:
 - (1) The area of wall signs may be increased to a maximum of twenty (20) percent of the area of the wall on which they are displayed; and
 - (2) The area of freestanding signs may be increased to a maximum of one-half (1/2) square foot per foot of lot frontage.
- D. Roof signs. Roof signs may be allowed by special permit, provided that:
 - (1) No such sign shall exceed one hundred (100) square feet or ten (10) percent of the area of the wall facing the direction of the sign, whichever is smaller; and
 - (2) No such sign shall project above the roof ridge except in the case of a flat roof, in which case the top of the sign shall not extend more than four (4) feet above the building.

ARTICLE XV
Special Provisions and Restrictions

§ 200-87. Environmental performance regulations.

- A. Any use permitted by right or by special permit in any district shall not be conducted in a manner as to cause any dangerous, noxious, injurious or otherwise objectionable emissions. These include but shall not be limited to: fire, explosion, radioactivity or other hazard; noise or vibration; smoke, dust, odor or other such forms of environmental pollution; electrical or electromagnetic disturbances; glare; liquid or solid refuse or wastes. Neither shall they cause to be emitted any energy and/or matter in such an amount as to adversely affect the public health, safety, welfare or convenience.
- B. In addition, no use permitted by right or by special permit in any district shall be conducted so as to provide conditions conducive to the breeding of microorganisms capable of causing disease, or of their vectors, such as insects and rodents.
- C. The following shall also govern:
 - (1) All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment in accordance with the current requirements of the Town of North Reading;
 - (2) Activities that emit dangerous radioactivity, at any point, shall be controlled in accordance with all regulations of the Nuclear Regulatory Commission, and with pertinent state and federal laws and regulations;
 - (3) No electrical, electromagnetic, and/or mechanical disturbances adversely affecting the operation, at any point, of any equipment necessary for the public health, safety or welfare, shall be permitted;
 - (4) No discharge, at any point, of any material in such a way, nature or temperature as can contaminate or elevate the water temperature in any season more than two (2) degrees Fahrenheit above normal in the immediate area of discharge into any body of water, running stream, groundwater supply or wetland area, shall be permitted. Neither shall such discharges cause the emission of dangerous or objectionable matter, and/or the accumulation of wastes conducive to the breeding of microorganisms capable of transmitting disease, or of their vectors, such as insects or rodents. Nor shall such discharges or emissions be detrimental to flora or fauna, except in conformance with the standards approved by the State Department of Public Health;
 - (5) No emission of visible smoke of a shade darker than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall be permitted, except:
 - (a) For a period or periods aggregating four (4) minutes in any thirty (30) minutes when No. 2, but not darker, is allowed; and

- (b) For a period or periods aggregating three (3) minutes in any fifteen (15) minutes of No. 3, but not darker, when cleaning, when building a new fire, or when breakdown of equipment occurs;
- (6) No emission which can cause any damage to health, of animals or vegetation, or which can cause excessive soiling, at any point, and in no event any emission of any solids, liquids, or vapors in concentrations exceeding 0.3 grains per cubic foot of conveying gas or air shall be permitted;
- (7) No objectionable odor greater than that caused by 0.001202 grain per thousand cubic feet of hydrogen sulfide shall be permitted;
- (8) All other discharges or releases of air contaminants into ambient air space not governed by the above regulations shall be subject to the standards set forth in the latest edition of Regulations for the Control of Air Pollution in the Metropolitan Air Pollution Control District, as published by the Massachusetts Department of Health, Division of Environmental Health;
- (9) Maximum permissible sound pressure levels at specified points of measurement for noise radiated continuously from a facility between 9 p.m. and 7 a.m. shall be as follows:

Maximum Permissible SPL Table

[Amended 10-2-2000 OTM by Art. 16, approved 3-29-2001]

Frequency Band (cycles per second)	Sound Pressure Level (Decibel re 0.0002 dyne/cm²)
20 - 75	69
75.1 - 100	54
100.1 - 300	47
300.1 - 600	41
600.1 - 1,200	37
1,200.1 - 2,400	34
2,400.1 - 4,800	31
4,800.1 - 10,000	28

- (a) For either of the two conditions described below { Subsection C(9)(a)[1] or one, and only one, of the corresponding adjustments to each of the actual decibel levels given above shall be allowed:
 - [1] Daytime (7 a.m. to 9 p.m.) operation only: +5.
 - [2] Noise source, emitting sound that is not smooth and continuous and operating less than twenty (20) percent of any hour period: +5.
- (b) The sound pressure level shall be measured at any point along the property line with a sound level meter and octave analyzer that conforms to the latest specifications published by the American Standard Association, New York, NY.

- (c) Noise-making devices which are maintained and utilized strictly to serve as warning devices are excluded from these regulations;
- (10) No direct or reflected electromagnetic radiation, whether from floodlights, from high-temperature processes such as welding, or from other such sources, shall be permitted when it is determined that it will be hazardous or obnoxious; and
- (11) No lighting shall be permitted that is not installed in a manner that will prevent direct light from shining onto any street or adjacent property.
 - (a) Direct or indirect lighting shall not cause total illumination in excess of 1.0 foot candles when measured at any point vertically above the boundary of a residence district or any residential property or right-of-way line of any public way.
 - (b) The above regulations shall not apply to municipal street lights.

§ 200-88. House trailers, camping trailers and mobile homes.

A. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]** House trailers, camping trailers and mobile homes shall be permitted only for the following uses and only in accordance with the regulations set forth in this section and ~ 200-36:

- (1) Storage.
 - (a) A travel trailer, camping trailer, camper or self-contained motor home owned by a property owner or lessee may be stored or parked on the premises of said owner or lessee during periods of non-use in any residential district;
 - (b) A house trailer or mobile home owned by a property owner or lessee may be stored or parked on the premises of said owner or lessee for a period of non-use not to exceed ninety (90) days provided that notification is furnished to the Building Inspector within seventy-two (72) hours after arrival of the house trailer or mobile home. Such notification may be given orally or in writing and the Building Inspector shall enter it upon his records. During this ninety-day period it shall not be hooked up to any utilities. The Building Inspector shall be notified upon the removal of a house trailer or mobile home.
- (2) Guest stationing. Any property owner or lessee in any residential district may accommodate one (1) house trailer or mobile home of a non-paying guest for a period not to exceed thirty (30) days in any one (1) calendar year, provided that:
 - (a) Notification of guest stationing is furnished to the Building Inspector with seventy-two (72) hours after arrival of the house trailer or mobile home. Such notification may be given orally or in writing, and the Building Inspector shall enter it upon his records and if requested shall issue a permit to the guest. The notification shall include name of guest, full home address, period for which guest stationing is desired and proposed location. No extension of a permit for guest stationing may be granted;

- (3) **[Amended 4-4-1994 ATM by Art. 21, approved 7-26-1994]** Emergency use. The Building Inspector may approve a temporary use of a house trailer or mobile home for commercial or residential purposes on the site where a need for rebuilding has been created by a need for major renovation or reconstruction, natural catastrophe, fire, flood or explosion. A permit for such emergency use must be acquired from the Building Inspector. A permit for the use of a house trailer or mobile home for commercial rebuilding shall be valid for a period of sixty (60) days and may be extended upon request if the Building Inspector is satisfied that the rebuilding is proceeding in good faith. A permit for temporary emergency use of a house trailer or mobile home by an owner and occupier of a residence shall be valid for a period not to exceed twelve (12) months while the residence is being rebuilt. Upon completion of the rebuilding, the permitted emergency use is no longer permitted; and
- (4) Temporary business use. The Building Inspector may approve the temporary use of a house trailer or mobile home for office, storeroom or shop use in connection with construction work in any zoning district provided that:
 - (a) A permit for such temporary use shall be required from the Building Inspector. To obtain said permit, the construction firm or its representatives shall file a statement which shall include the name of the firm, its home office address, the estimated period of stationing requested and the proposed use of the house trailer or mobile home. Said permit shall be valid for a period of sixty (60) days and may be extended upon request for sufficient reason;
 - (b) The Building Inspector shall be notified upon the removal of a house trailer or mobile home.

B. Additional regulations.

- (1) Any house trailer, camping trailer or mobile home not registered to operate on public highways must be located so as to comply with the dimensional and density regulations for an accessory building situated in the zoning district where the house trailer, camping trailer or mobile home is located; and
- (2) Any sanitary facilities to be used shall be connected to a disposal system approved by the Plumbing Inspector and the Board of Health.

§ 200-89. North Reading Housing Authority multi-family housing. [Amended 10-6-1983 OTM by Art. 24, approved 12-7-1983; 4-9-1984 ATM by Art. 24, approved 6-15-1984]

A building or group of buildings operated by a public agency, having three (3) or fewer independent dwelling units, each having a room or suite of rooms with its own bathroom and toilet facilities, for occupancy by a family unit consisting of one (1) or more persons, such building or group of buildings having separate kitchen facilities for the preparation and serving of meals to residents thereof and their guests (but not to the public), and at the option of the owner, lounge rooms for the common use of the residents thereof, and their guests, also in connection therewith, the parking of automobiles and such other accessory uses as are customary, all subject to conformity with the following Subsections A and B of this section:

- A. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area.
- B. In all other respects, the dimensional and density regulations for the district in which the use is proposed shall apply. (See the Table of Dimensional and Density Regulations.)⁸

§ 200-90. Multi-family residential. [Added 10-4-1984 OTM by Art. 14, approved 1-8-1985]

A building or group of buildings having four (4) or more independent dwelling units, each having a room or suite of rooms with its own bathroom and toilet facilities and kitchen and cooking facilities, for occupancy by a family unit consisting of one (1) or more persons and in connection therewith, the parking of automobiles in accordance with Article XIII and such other accessory uses as are customary, all subject to conformity with the following Subsections A through I of this section.

- A. No building or other structure shall be erected or placed on a lot containing less than forty thousand (40,000) square feet in area;
- B. There shall be provided a land area of not less than three thousand five hundred (3,500) square feet located within the RM District for each dwelling unit;
- C. Each lot shall have a frontage of at least seventy-five (75) feet on a street. Said frontage shall be on a street as defined under Chapter 41, Section 81L as follows:
 - (1) A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
 - (2) A way shown on a plan approved and endorsed under the Subdivision Control Law; or
 - (3) A way in existence on or before September 19, 1944, having, in the opinion of the Community Planning Commission, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon;
- D. No building or addition to any building, including accessory buildings, shall be erected or placed on a lot which will result in the covering of that portion of the lot located within the RM District by buildings of more than twenty (20) percent of the portion of the lot in the RM District;
- E. No building shall exceed two and one-half (2 1/2) stories in height;
- F. No building or structure shall be located within thirty (30) feet of any property boundary line abutting a street or within twenty (20) feet of any other property boundary line;

⁸Editor's Note: The Table of Dimensional and Density Regulations is included at the end of this chapter.

- G. Screening and buffering shall be provided in accordance with the provisions of § 200-64 and the provisions of § 200-87 as applicable to multi-family development, except that the area between a property boundary line abutting a street and a line thirty (30) feet from and parallel thereto shall be kept open and in lawn or landscaped, unparked on and unbuilt upon except for driveways and walks. Any other provision to the contrary notwithstanding, the area between any other property boundary line and a line ten (10) feet from and parallel thereto shall be kept open and in lawn or landscaped, unparked on and unbuilt upon;
- H. All parking and loading facilities shall be suitably landscaped. Such landscaping shall be designed to minimize the impact of the parking area upon adjacent property and within the lot by the use of existing vegetation to the extent practicable and new trees, shrubs, walls, fences and other landscape elements. In the case of parking facilities for more than forty (40) spaces, at least five (5) percent of the area within the limits of the parking facilities shall be set aside for landscaped areas and such areas shall be provided with a minimum width of ten (10) feet, curbing and shade trees;
- I. No provision of this Zoning Bylaw concerning height regulations or area regulations shall apply to this use except as set forth in this section.

ARTICLE XVI
Amendments; Severability

§ 200-91. Amendment to Zoning Bylaw or Zoning Map.

- A. Article submission. Amendments to this Zoning Bylaw may be initiated by submission in writing of a proposed amendment to the Board of Selectmen by the Community Planning Commission, the Zoning Board of Appeals, the Metropolitan Area Planning Council, the Board of Selectmen, an individual owning the land to be affected by said amendment or by the number of registered voters required for a citizens' petition pursuant to MGL c. 39, ~ 10.
- B. Proposed Zoning Map changes. **[Added 11-6-1978 OTM by Art. 12, approved 2-6-1979]**
- (1) If the proposed amendment concerns a change to the Zoning Map, the petitioner shall, at the time of submittal to the Board of Selectmen, also submit a copy of the proposed article to the Community Planning Commission accompanied by the following:
 - (a) Two (2) copies of applicable Assessors' maps delineating in color the proposed change(s). If the proposed change does not entirely follow property lines as depicted on the Assessors' map, it shall be prepared and certified by a registered professional engineer or registered land surveyor and shall set forth bearings and distances (metes and bounds) sufficient to identify the property involved and the change in the district boundary; and
 - (b) Four (4) copies of the Zoning Map delineating in color the proposed district change(s). Said copies shall be prepared by a registered professional engineer or a registered land surveyor and shall set forth bearings and distances (metes and bounds) sufficient to identify the district boundary change. Unless specifically waived by the Community Planning Commission, each Zoning Map shall contain a locus.
 - (2) If the petitioner for a proposed amendment to the Zoning Map is other than the Board of Selectmen, Community Planning Commission, Board of Appeals or the Metropolitan Area Planning Council, the cost of legal advertising shall be paid for by the petitioner and a receipted bill shall be submitted to the Community Planning Commission at least seven (7) days prior to the public hearing.
- C. Public hearings and recommendations of Community Planning Commission. The provisions of MGL c. 40A, ~ 5 shall govern the procedures to be employed for public hearings and reports of the Community Planning Commission on proposed zoning amendments. **[Amended 11-6-1978 OTM by Art. 12, approved 2-6-1979]**
- D. Town Meeting action. The Town Meeting may adopt, reject or amend and adopt a proposed amendment only by a two-thirds (2/3) vote and only within six (6) months after the public hearing on any proposed zoning amendment.

- E. Repetitive petition. No proposed amendment to this Zoning Bylaw which has been unfavorably acted upon by the Town Meeting shall be considered again by the Town Meeting within two (2) years after the date of such unfavorable action unless the Community Planning Commission in its report to Town Meeting on the initial submission recommended favorable action.

§ 200-92. Effective date of amendments.

The effective date of any amendment to this Zoning Bylaw or to the Zoning Map shall be the date of favorable action by Town Meeting on such amendment.

§ 200-93. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Zoning Bylaw is for any reason held invalid, illegal or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

ARTICLE XVII
Site Plan Review
[Added 10-17-1991 OTM by Art. 21, approved 2-4-1992]

§ 200-94. Applicability.

- A. All proposed retail, service, commercial, wholesale, transportation and industrial developments, redevelopments or expansions, which are not otherwise subject to site plan review pursuant to the provisions of § 200-10A and 200-28, Articles VIII through XI, Article XIV or § 200-90 shall be subject to site plan review and approval by the Community Planning Commission prior to the issuance of any building permit in connection with such development, redevelopment or expansion. Likewise, prior to the issuance of a certificate of occupancy, all conditions of said site plan approval must be met. [Amended 10-8-1998 OTM by Art. 19, approved 1-27-1999]
- B. The site plan review requirements established by this article shall not apply to any development which, prior to the effective date of this article, had been authorized by a special permit granted under former Section 8.4 of the Zoning Bylaw, provided that and until such development project is constructed in accordance with the terms of said special permit, including any amendment or extension of said special permit, as may be granted by the issuing authority.

§ 200-95. Purpose.

The purposes of the site plan review requirements of this article are as follows:

- A. To protect and advance the public health, safety, morals, convenience, aesthetics and welfare by establishing standards of performance and design for future retail, service, commercial, wholesale, transportation and industrial development which recognizes the interdependence of land values, aesthetics and good site planning by promoting harmonious, safe, attractive and compatible development.
- B. To allow for the review of all aspects of proposals for said developments including, but not limited to, present and projected growth of the Town, the relationship of the development to the surrounding environment and the community, and the quality of the site plan.

§ 200-96. Standards.

- A. Site plans reviewed under this article shall conform to the purposes, standards and requirements specified herein and to the site plan review regulations adopted by the Community Planning Commission pursuant to § 200-97 of this article.
- B. Site plans submitted for review under this article shall, at a minimum:
 - (1) Provide for the safe and attractive development or change or expansion of development of the site and guard against such conditions as would involve danger or injury to public health, safety or welfare;
 - (2) Provide adequate drainage to prevent flooding of the site or of property of another;

- (3) Provide protection for the quality of groundwater;
- (4) Minimize elements of pollution, such as noise, smoke, soot, particulates or any other discharge into the environment which might prove harmful and/or detrimental to persons, structures or adjacent properties;
- (5) Provide adequate provision for fire safety, prevention and control;
- (6) Provide for the harmonious and aesthetically pleasing development of the Town and its environs; and
- (7) Provide for open spaces and green spaces of adequate proportions.
- (8) Provide for adequate traffic control.

C. In approving a site plan under this article, the Community Planning Commission shall:

- (1) Require the proper arrangement and coordination of streets within the site in relation to other existing or planned streets.
- (2) Require suitably located access of sufficient width to accommodate existing and prospective traffic and to afford adequate access for fire-fighting apparatus and equipment to buildings, and to be coordinated so as to comprise a convenient system.
- (3) Require, in proper cases, that plans showing new access roads or narrowing or widening of such existing access roads, be submitted to the North Reading Community Planning Commission for approval.
- (4) Require that the land indicated on site plans submitted to the North Reading Community Planning Commission shall be of such character that it can be used for building purposes without danger to health.

§ 200-97. Adoption of regulations.

A. The Community Planning Commission shall adopt site plan review regulations pursuant to this article which shall:

- (1) Provide procedures which the North Reading Community Planning Commission shall follow in reviewing site plans;
- (2) Further define the purposes of site plan review;
- (3) Specify the general standards and requirements with which the proposed development shall comply, including appropriate reference to accepted codes and standards for construction;
- (4) Include provisions for guarantees of performance, including bonds or other security;
- (5) Include provisions for waivers of any portion of the regulations in such cases where, in the opinion of the North Reading Community Planning Commission, strict conformity would

pose an unnecessary hardship to the applicant and provided such waiver would not be contrary to the spirit and intent of the regulations.

- (6) Include such provisions as will tend to create conditions favorable for health, safety, convenience and property.
- (7) Provide for involvement and participation in transportation management organizations.
- (8) Provide for incorporation of the goals and objectives set forth by regional and state planning agencies.
- (9) Provide that, in lieu of the completion of street work and utility installations prior to the final approval of a plan, the North Reading Community Planning Commission shall accept a performance security as shall be specified in the site plan review regulations. The North Reading Community Planning Commission shall have the discretion to prescribe the type and amount of the bond or other security, and specify a period for completion of the improvements and utilities to be expressed in the bond or other security, in order to secure for the Town the actual construction and installation of such on or off site improvements and utilities. The Town shall have the power to enforce such bonds or other securities by all appropriate legal and equitable remedies.
- (10) Require an applicant to pay all costs for notification of abutters.
- (11) **[Added 4-7-2008 ATM by Art. 23, approved 6-27-2008]** Provide for submission requirements, procedures and decision standards that apply to Site Plan Review for uses in a Priority Development Site designated by Town Meeting pursuant to M.G.L.c.43D.

B. In addition, said site plan Review regulations may:

- (1) Provide for the assessment of reasonable fees to cover the Commission's administrative expenses, the costs of special investigative or other consulting services, and the review of documents and other materials which may be required due to the nature of a particular site plan.
- (2) Stipulate, as a condition precedent to the approval of the plan, the extent to which and the manner in which streets within the development, or immediately adjacent thereto, shall be graded and improved and in which water, sewer, and other utility mains, piping, connections or other facilities shall be installed.
- (3) Provide for the conditional approval of the plan before said improvements and installations have commenced.

§ 200-98. Administration.

When exercising its powers of site plan review under this article, the North Reading Community Planning Commission shall hold a public hearing on any complete site plan review application within thirty (30) days of its submission. Public notice of said hearing shall be given in accordance with the requirements of Massachusetts General Laws Chapter 40A, Section 11. The North Reading Community Planning Commission shall make a final decision regarding a site plan within ninety (90) days after the date of its public hearing closing. The required time limits for public hearing and North Reading Community Planning

Commission action may be extended by written agreement between the applicant and the North Reading Community Planning Commission. Failure of the North Reading Community Planning Commission to act within said ninety (90) days or extended time, if applicable, shall be deemed an approval of the site plan.

§ 200-99. Appeals.

An appeal may be taken to the Zoning Board of Appeals, pursuant to General Law Chapter 40A, Section 8 and Article XV and § 200-26 of this Zoning Bylaw, by any person aggrieved by a decision of the Community Planning Commission to approve, conditionally approve, or deny a site plan submitted under this article. Said appeal shall be taken within thirty (30) days of the decision being appealed.

ARTICLE XVIII
Unaccepted Streets - Adequate Access

1. **§ 200-100. Intent and Purpose:**

This by-law shall govern the use of unaccepted ways, excluding those ways approved under the Subdivision Control Law, for access to building lots in the Town of North Reading.

1. Unaccepted ways shall meet the Community Planning Commission's street standards in order to be judged adequate.
 - A. The Community Planning Commission may grant a Certificate of Waiver from the standards in cases where the unaccepted way meets acceptable construction standards at the time of the occupancy permit application.
2. All new buildings, excluding accessory structures, additions and alterations, shall have frontage on ways which provide adequate access for the entire length of the way up to and including the minimum lot frontage required under zoning.
 - A. No building permits shall be issued until plans for the construction or upgrading of the way have been approved by the Community Planning Commission.
 - B. The way shall be improved from the nearest way in existence which meets standards acceptable to the Community Planning Commission.
3. The layout and design of the way shall be stamped by a Professional Engineer and shall demonstrate compliance with the Community Planning Commission street standards.
4. All necessary wetland approvals shall be obtained for road construction prior to issuance of any road opening permits as applicable.
5. No occupancy permit shall be issued until the way, which a lot fronts on is complete and in full compliance with the Community Planning Commission standards.
 - A. A bond or other form of security cannot act as a substitute for completion of the way.
6. Ways approved under the Subdivision Control Law are exempt from Section 3.
7. When exercising its powers of review under this General Bylaw, the North Reading Community Planning Commission shall hold a Public Hearing within 30 days of the submission of a complete application. Public Notice of said hearing shall be given at least seven and fourteen days prior to the date of the Public Hearing by posting said notice in a newspaper of general circulation and by a certified mailing to every property owner with frontage on the subject street. All expenses for notification shall be borne by the applicant.
8. If a request for a Certificate of Waiver is denied, the Community Planning Commission will issue a denial letter.

ARTICLE XIX
Historic Preservation

A. **§ 200-101. Purpose and Intent.**

The purpose of this by-law is to encourage the preservation of buildings, structures, sites and settings of historic significance, by allowing such buildings or features to remain in place, or be moved to another location rather than be demolished or otherwise compromised. The by-law gives the Board of Appeals the authority to issue a special permit modifying certain dimensional standards for the creation of new lots, or for the use of existing lots for purposes of the preservation of historic structures or buildings as defined herein.

B. **Historic Structures Defined:**

For purposes of a dimensional special permit for historic preservation the historic building or structure must be listed on one of the following:

1. The National Register of Historic Places;
2. The State (Commonwealth of Massachusetts) Register of Historic Places;
3. The North Reading Historic Building Survey.

C. **Parent Parcel Defined:**

A parent parcel is the parcel of land that is to be divided.

D. **Standards and Regulations:**

The following specific standards shall be applied to a dimensional special permit for historic preservation:

1. The lot must be located in a Residential Zoning District.
 - (a). Any new lot created under this by-law shall contain not less than ½ the minimum lot area for the Residential zoning district in which it is proposed.
 - (b). The original lot being subdivided (Parent Lot) shall, under no circumstances, be permitted to be made non-conforming to the frontage and area requirements of the Residential zoning district in which it is located.
 - (c). Any new lot created shall have a minimum contiguous upland area, free of wetlands, of 5,000 sq. ft.
3. Lot frontage and building setbacks on new lots created under this by-law shall be as follows:

<u>Full Name</u>	<u>Short Name</u>	<u>Frontage</u>	<u>Setbacks</u>		<u>Rear</u>
			<u>Front</u>	<u>Side</u>	
Residence A District	RA	80	25	10	20
Residence R District	RR	80	25	10	20
Residence B District	RB	65	10	10	20
Residence D District	RD	80	25	10	20
Residence E District	RE	80	25	10	20
Residence M District	RM	50	10	10	20

4. Any new lot created under this by-law shall have its required frontage on a public way as measured at the street line.
5. Any new lot created under this by-law shall meet the requirements of Title 5.
6. No new lot may be created that would render the parent parcel of land nonconforming with regard to dimensional requirements, including but not limited to area and frontage. **[Amended 4-9-07 ATM by Art. 21, approved 8-8-2007]**
7. A vacant existing nonconforming lot need not meet the standards set forth in Subsections 1 through 3 above; however, the provisions of Subsections 4 will apply.
8. The special permit granting authority shall determine whether or not an historic structure or building can be placed on a lot without detrimental effect to abutting properties or the street on which the lot has its frontage.

E. Findings Required:

Priority in granting a dimensional special permit for historic preservation shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing site can be shown to represent valid historical setting and context. Moving of structures or buildings to other locations shall be considered only if no other preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building or structure to an original or more historically accurate location. In addition to the findings required under Section 200-23 of the Zoning By-law and the foregoing standards and regulations, the permit granting authority shall consider the following specific items:

1. That the modification of dimensional requirements is necessary to protect, preserve or maintain an historic structure or building;
2. That the proposed work, including any relocation or reconstruction, preserves, to the maximum extent feasible, the historical and architectural features of the structure or building;
3. That in the absence of a special permit, destruction of an historic structure or building will result.

F. Conditions To Be Imposed:

If the Zoning Board of Appeals grants the special permit, it shall impose, as minimum conditions, the following:

1. In the event of a catastrophic event which results in damage to the historic structure such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
 - (a) The new dwelling is placed in the existing footprint; or
 - (b) The new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding
2. Prior to the move, the Board of Selectman of the Town of North Reading shall approve the route and the timing of the move of the building or structure.
3. In the event that the owner of the lot wishes to make changes to the historic structure after it is relocated, the owner must seek a modification of the special permit from the Zoning Board of Appeals. The Zoning Board of Appeals shall request that the Historical Commission review the proposal and provide a recommendation prior to their decision.
4. Upon the appeal period expiring, the applicant shall submit the approved plan to the Community Planning Commission for an Approval Not Required endorsement pursuant to Chapter 41, Section 81P of the Massachusetts General Laws. Such an endorsement shall be a condition of the special permit approval.
5. The owner shall record at the Middlesex South District Registry of Deeds an historic preservation restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by the Massachusetts Historical Commission in accordance with Chapter 184, Section 32, of the Massachusetts General Laws, which shall at a minimum provide for conditions under which alterations, additions or modifications may be made, and in the event of damage to the historic structure such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the following requirements: (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding. Any mortgagee shall subordinate its mortgage to this restriction.
6. When the decision of the Board of Appeals on the application for a dimensional special permit for historic preservation has become final, the applicant shall submit the plan upon which the decision is based to the Community Planning Commission for certification as an approval not required plan pursuant to Chapter 81, Section 41P, of the Massachusetts General Laws. The notice of decision of the Board of Appeals, the approved and endorsed historic preservation restriction with any required mortgagee subordination, and the approval not required plan certified by the Planning Board shall be recorded concurrently at the Middlesex South District Registry of Deeds.

G. Application Requirements and Procedure:

Ten copies of an application for a dimensional special permit for historic preservation shall be filed with the Board of Appeals. Copies of the application will be distributed to, and a review shall be conducted involving but not limited to staff representatives of, Planning, Historical Commission, Building, Health, Conservation, School, Public Works, Police and Fire. Comments from the reviews shall be submitted to the Zoning Board of Appeals.

The application shall include the following information:

1. A plan prepared by a registered land surveyor and/or professional engineer showing the lot proposed to be created or used for the preservation of an historic structure or building. The plan shall be suitable for purposes of submission as an Approval Not Required plan. The plan shall be at a scale of one inch equals 20 feet, on a sheet size of 24 inches by 36 inches. And shall show the following information:
 - (a) All existing and proposed property lines with bearings and distances;
 - (b) If the application is for the creation of a new lot, then the parent parcel from which the lot is being taken shall also be shown in its entirety at the same scale;
 - (c) The location and size of all existing structures or buildings on and adjacent to the proposed lot, and the distances between all existing and proposed structures or buildings;
 - (d) The public way on which the existing or proposed lot will have its frontage;
 - (e) Proposed front, side and rear building setback lines;
 - (f) Existing and proposed topography (grading);
 - (g) Significant trees or other natural features;
 - (h) The location and type of utilities serving the lot;
 - (i) Wetlands delineation;
 - (j) The name of the owner and all parties having any interest in the lot, including book and page numbers of the documents at the Registry of Deeds which describe such an interest;
 - (k) A copy of the deed of ownership shall be included with the application; and
 - (l) All easements on the lot.
2. If the historic structure is going to be relocated, a map showing the route over which the historic structure or building will be moved;
3. If the historic structure is going to be relocated, a letter from the Police Chief, Fire Chief, Tree Warden of the Town and the Director of Public Works approving the route. It is the responsibility of the applicant to contact and obtain approvals (if needed) from utility companies having overhead cables, lines or wires along the route, and from the Massachusetts Highway Department if a state

roadway is involved and from the Director of Public Works, Police Chief and Fire Chief of any city or town included on the route. The applicant is responsible for any costs associated with police supervision along the route;

4. A letter from the Historical Commission, certifying that the structure is an historic structure, as defined in this by-law and any recommended conditions for the special permit;
5. A statement of any changes to be made to the historic structure;
6. The provisions of Sections 200-23. through 200-28 of the Zoning By-law shall apply to the application, hearing, decision, conditions and lapse of a dimensional special permit for historic preservation;
7. A dimensional special permit issued under this by-law shall contain an account of all required findings and considerations made by the permit granting authority in its decision to allow such exception to the by-laws.

G. Application Requirements and Procedure:

Ten copies of an application for a dimensional special permit for historic preservation shall be filed with the Board of Appeals. Copies of the application will be distributed to, and a review shall be conducted involving but not limited to staff representatives of, Planning, Historical Commission, Building, Health, Conservation, School, Public Works, Police and Fire. Comments from the reviews shall be submitted to the Zoning Board of Appeals.

The application shall include the following information:

1. A plan prepared by a registered land surveyor and/or professional engineer showing the lot proposed to be created or used for the preservation of an historic structure or building. The plan shall be suitable for purposes of submission as an Approval Not Required plan. The plan shall be at a scale of one inch equals 20 feet, on a sheet size of 24 inches by 36 inches. And shall show the following information:
 - (a) All existing and proposed property lines with bearings and distances;
 - (b) If the application is for the creation of a new lot, then the parent parcel from which the lot is being taken shall also be shown in its entirety at the same scale;
 - (c) The location and size of all existing structures or buildings on and adjacent to the proposed lot, and the distances between all existing and proposed structures or buildings;
 - (d) The public way on which the existing or proposed lot will have its frontage;
 - (e) Proposed front, side and rear building setback lines;
 - (f) Existing and proposed topography (grading);
 - (g) Significant trees or other natural features;
 - (h) The location and type of utilities serving the lot;

- (i) Wetlands delineation;
 - (j) The name of the owner and all parties having any interest in the lot, including book and page numbers of the documents at the Registry of Deeds which describe such an interest;
 - (k) A copy of the deed of ownership shall be included with the application; and
 - (l) All easements on the lot.
- 2. If the historic structure is going to be relocated, a map showing the route over which the historic structure or building will be moved;
- 3. If the historic structure is going to be relocated, a letter from the Police Chief, Fire Chief, Tree Warden of the Town and the Director of Public Works approving the route. It is the responsibility of the applicant to contact and obtain approvals (if needed) from utility companies having overhead cables, lines or wires along the route, and from the Massachusetts Highway Department if a state roadway is involved and from the Director of Public Works, Police Chief and Fire Chief of any city or town included on the route. The applicant is responsible for any costs associated with police supervision along the route;
- 4. A letter from the Historical Commission, certifying that the structure is an historic structure, as defined in this by-law and any recommended conditions for the special permit;
- 5. A statement of any changes to be made to the historic structure;
- 6. The provisions of Sections 200-23. through 200-28 of the Zoning By-law shall apply to the application, hearing, decision, conditions and lapse of a dimensional special permit for historic preservation;
- 7. A dimensional special permit issued under this by-law shall contain an account of all required findings and considerations made by the permit granting authority in its decision to allow such exception to the by-laws.

ARTICLE XX

BERRY CENTER RESIDENTIAL SMART GROWTH OVERLAY DISTRICT (SGA)

§ 200-102. Purpose

It is the purpose of this Section to establish a Berry Center Residential Smart Growth Overlay District and to encourage smart growth pursuant to and in accordance with the purposes of G. L. Chapter 40R and the regulations promulgated thereunder at 760 CMR 59.00 et seq., and to foster a broader range of housing opportunities within the Town of North Reading, and, when coupled with the existing Industrial / Office zoning for the Berry Center area, to foster mixed use development, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to nearby recreational land, and to adjacent land already zoned for future employment for industrial and commercial purposes and a full-service family restaurant. Other objectives of this Section are to:

- A. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities in the Town of North Reading by adding to the currently underprovided multi-family housing stock of the Town;
- B. Provide for a full range of housing choices in the Town of North Reading, consistent with market demands, for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
- C. Increase the production of housing units to meet existing and anticipated housing needs;
- D. Provide a mechanism by which residential development can contribute directly to increasing the supply and Town-wide diversity of housing;
- E. Establish requirements, standards, and guidelines, and ensure predictable, prompt, fair and cost-effective development review and permitting;
- F. Establish development standards to allow context-sensitive design and creative site planning, and also provide for consistency in site planning whether a residential project proceeds under this Article or under the comprehensive permit process established by M.G.L. c.40B;
- G. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with G. L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Berry Center Residential Smart Growth Overlay District; and
- H. Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments at the Berry Center Residential Smart Growth Overlay District pursuant to G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Zoning Overlay Districts.

§ 200-103. Definitions

- A. For purposes of this Article XX, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this §200-103. To the extent that there is any conflict between the definitions set forth in this §200-103 and the Enabling Laws, the terms of the Enabling Laws shall govern. For the purpose of this Article XX, certain words or phrases shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural, words used in the present tense include the future tense, the word “person” includes corporations, limited partnerships, limited liability companies and other legal entities, as well as an individual, the word “lot” includes the word “plot” or “parcel,” the words “used” or “occupied” include the words “designed, arranged, intended or offered to be used or occupied,” the words “building,” “structure,” “lot,” “land,” or “premises” shall be construed as though followed by the words “or any portion thereof,” and the word “shall” is always mandatory and not merely directory.
- B. Terms and words not defined in this Article, but defined in the Massachusetts State Building Code and/or Town of North Reading General Bylaws, as amended, shall have the meanings given therein, unless a contrary intention clearly appears from the context. Words not defined in any of the State Building Code, the General Bylaws, the Enabling Laws or this Article shall have the meaning given in Webster’s Unabridged Dictionary, 3rd Edition.

ABANDONMENT – The purposeful discontinuation of a use of a building or lot for two (2) years or more; or the removal of the characteristic equipment or furnishings used in the performance of a nonconforming use, without its replacement by similar equipment or furnishings within two (2) years thereafter.

ACCESSORY BUILDING – A detached building, the use of which is customarily subordinate and incidental to that of the principal building or buildings, whether or not located on the same lot.

ACCESSORY USE – A use of a lot customarily subordinate and incidental to the principal use of the lot, or a neighboring lot in the case of a use pursuant to an easement, or to a structure on the lot, or on a neighboring lot in the case of a structure erected and maintained pursuant to an easement.

AFFORDABLE HOMEOWNERSHIP UNIT - an Affordable Housing unit required to be sold to an Eligible Household.

AFFORDABLE HOUSING - housing that is affordable to and occupied by Eligible Households. Affordable Housing units created within the SGA meeting the standards set out in 760 CMR. 45.07(3) shall count on the Subsidized Housing Inventory, subject to the approval of the Massachusetts Department of Housing and Community Development (DHCD).

AFFORDABLE HOUSING RESTRICTION - a deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of §200-103 of this Bylaw.
AFFORDABLE RENTAL UNIT - an Affordable Housing unit required to be rented to an Eligible Household.

APPLICANT – A person which files an application for Plan Approval, or files a notice for a deemed Plan Approval, pursuant to this Article XX. If the Applicant is not the owner of the lot in question, then the Applicant, as part of the application or notice shall obtain the owner’s written

authorization to file such application or notice. Such written authorization may take the form of pre-existing agreements or instruments including, without limitation, signed purchase and sale agreement(s) and signed easement(s) (whether or not yet recorded).

AS-OF-RIGHT-PROJECT OR PROJECT - means a project proposed or developed for Multifamily Residential Use and one or more related amenities and accessory uses, structures and buildings commonly associated with a multi-family residential development including without limitation, associated clubhouse(s), private recreational facilities (e.g. swimming pools, tennis courts, lawns, open areas, walking paths and other active and passive recreational areas), private sewage treatment facilities and associated treated effluent disposal facilities including without limitation all associated buildings, piping, structures and disposal fields, landscaping, concierge facilities, driveways and drive lanes, surface parking, parking garages, garages under one or more buildings, and/or structured parking garages; all of which shall be permitted by this Article without recourse to or requirement for any special permit, variance, zoning amendment, or other form of zoning relief. A development or project that requires only Plan Approval or deemed Plan Approval pursuant to this Article XX shall be considered an As-of-right Project.

BASE INCOME – See definition embedded in the definition of Eligible Household.

BUILDING – A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, processes or property. For the purpose of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed, where the context requires, as though followed by the words “or part of parts thereof.”

BUILDING AREA – The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconied and terraces.

BUILDING INSPECTOR – The duly appointed officials of the Town of North Reading charged, among other things, with enforcement of the Zoning Bylaw including, without limitation, this Article.

BUILDING PERMIT – A permit issued by the Building Inspector for the construction, reconstruction, alteration or change of a structure as required by the Massachusetts State Building Code.

DHCD - The Department of Housing and Community Development of the Commonwealth of Massachusetts, and any successor agency.

DETACHED BUILDING – A building having open space on all sides.

DRIVEWAY OR DRIVEWAY LANE – A portion of a lot designed for vehicular access to off-street parking or loading space or to a garage, whether or not located on the same lot.

DWELLING UNIT – One (1) or more living, kitchen and sleeping room(s) providing complete living facilities for the use of one (1) or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation, but not including mobile homes or trailers, however mounted, or commercial accommodations offered for transient occupancy of less than one month’s duration.

ELIGIBLE HOUSEHOLD - an individual or household whose annual income is no more than eighty percent (80%) of the area-wide median household income for the Boston Primary Metropolitan Statistical Area, as published from time to time by the United States Department of Housing and Urban Development (HUD), or successor agency, adjusted for household size ("Base Income"). Eligible Household assets shall not exceed \$50,000 in value, provided that in the case of 55 and older, or age restricted homeownership units, the purchaser Eligible Household may additionally own a dwelling (to be sold) in which the purchaser has no more than \$150,000 in equity. Assets may include net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds and other forms of capital investment, excluding equity accounts in HUD homeownership programs or state assisted public housing escrow programs. The value of necessary items of personal property, such as furniture and automobiles, shall be excluded. (See 24 CFR 5.603(b).) For Affordable Homeownership Units, an Eligible Household shall not have owned a home within three years preceding its application, with the exception of displaced homemakers and elderly households (where at least one household member is 55 or older).

ENABLING LAWS - G.L. Chapter 40R and 760 CMR 59.00.

ERECT – To construct or reconstruct or excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot. The word "erect" shall include "building," "constructing," "reconstructing," "altering," "enlarging" and "moving."

FAMILY – An individual, or two (2) or more persons living together as a single housekeeping unit.

GRADE, FINISHED – The average elevation of the ground at the conclusion of construction.

LANDSCAPED BUFFER – A planted area intended to provide, when mature, a visual screen between uses. Landscaped buffers may include existing vegetation, new plantings and/or lawn areas. Fencing may form a part of the landscaped buffer or screening where appropriate or dictated by topography or other consideration.

LANDSCAPING – Improvements to land to enhance its attractiveness and facilitate its use and enjoyment. Landscaping may include walks, terraces and the like, fencing, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Landscaping may also include existing natural areas indicated to remain and/or be renovated.

LOT -- A parcel of land used or available for use as the site of one (1) or more Principal Buildings and Accessory Buildings, as shown or defined on a recorded instrument or as otherwise defined by metes and bounds. A lot for the purpose of this Article may or may not coincide with a lot of record title.

MULTI-FAMILY RESIDENTIAL SUBDISTRICT – See §200-104, below.

MULTI-FAMILY RESIDENTIAL USE – Apartment or condominium dwelling units in one or more buildings, each of which buildings contains or will contain more than three (3) such units.

PAA – See Plan Approval Authority.

PARKING SPACE – An off-street space for use as a parking stall for one (1) motor vehicular, meeting the applicable requirements of this Article, whether inside or outside a garage or structure.

PLAN APPROVAL - The site plan review approval issued (or deemed issued) by the PAA for a Project pursuant to an application or notice submitted by an Applicant, under the standards and procedures set forth in this Article.

PLAN APPROVAL AUTHORITY - For purposes of reviewing Project applications and issuing Plan Approval and other decisions on development Projects within the SGA, the Zoning Board of Appeals, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and is authorized to issue Plan Approvals to implement a Project.

PRINCIPAL BUILDING – A detached building in which is conducted the principal use of the lot on which it is located. Garages, parking structures, mail box kiosks, and the like shall not be treated as Principal Buildings, but rather as Accessory Buildings.

PRINCIPAL USE – The main or primary purpose for which a structure or lot is designed, arranged or intended or which it may be used, occupied or maintained under this Article.

PROJECT – See As-of-right Project.

SGA – The smart growth area, also known as the Berry Center Residential Smart Growth Overlay District, established and located by this Article, including all subdistricts established within such Overlay District by this Article.

SGA-MAIN DRIVE SUBDISTRICT – See §200-104, below.

SGA-DISPOSAL FIELD SUBDISTRICT – See §200-104, below.

SGA ZONING MAP – The zoning map for the SGA, more particularly described in §200-104, below.

STRUCTURE – A combination or materials for occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, shelters, piers, bin, fence, sign, swimming pool or the like.

UNDERLYING ZONING – The zoning otherwise established by the Zoning Bylaw for the SGA without regard to this Article.

USE – The purpose for which a structure or land is used or intended to be used.

USE, SUBSTANTIALLY DIFFERENT – A use which by reason of its normal operation would cause readily observable, material differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

§ 200-104. Establishment of Overlay District

- A. The Berry Center Residential Smart Growth Overlay District, herein referred to as the SGA, is an overlay district having a land area of approximately fifty-seven and seven tenths (57.7) acres in size that is superimposed over all underlying zoning districts, including without limitation all other overlay districts, established by the Zoning Bylaw now or hereafter applicable to that certain portion of the property known as the J.T. Berry Center, and is shown on the Zoning Map as set forth on the map entitled “Berry Center Residential Smart Growth Overlay District”, dated December 22, 2005, prepared by Symmes Maini & McKee Associates.” This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk (the “SGA Zoning Map”). The SGA contains approximately twenty-seven and four tenths (27.4) acres of land which are Environmentally Constrained Land, or other Non-Developable Land, being land within wetlands, within the 12-foot wetlands no-disturb buffer established by this Article, within so-called Zone A floodplains (also known as 100-year floodplains), land the use of which is or will be limited to a principal driveway or drive lane (approximately four-tenths of one (0.4) acre), or limited to use as private sewage treatment disposal field areas (approximately seven and nine-tenths (7.9) acres). The SGA thus contains approximately thirty and three-tenths (30.3) acres of Developable Land.
- B. The SGA contains three (3) subdistricts, all hereby established and all in the locations shown on the SGA Zoning Map:
- (1) the SGA-Main Drive Subdistrict (aka Main Shared Drive Lane), containing approximately four tenths of one (0.4) acre;
 - (2) the SGA-Disposal Field Subdistrict (aka Residential Disposal Field and Commercial Parking Subdistrict), containing approximately seven and nine-tenths (7.9) acres; and
 - (3) the Multi-family Residential Subdistrict, containing approximately thirty and three tenths (30.3) acres.
- C. The SGA contains all or portions of at least two (2) separate legal lots.

§ 200-105. Relationship to Underlying Zoning and Other Permitting Requirements

- A. **Relationship to Underlying Zoning** The SGA is an overlay district superimposed on all underlying zoning districts, including without limitation all other overlay districts, now or hereafter established by the Zoning Bylaw. The use, dimensional, parking and other regulations governing the underlying zoning district(s) shall remain in full force, and are not amended or modified by this Article. A development or project shall comply either (a) completely with underlying zoning, or (b) completely with the overlay zoning for the SGA created by this Article and the Enabling Laws, but shall not be required to comply with both. In order to provide for the harmonious development and use of land within the SGA and abutting land not located within the SGA, the use of the SGA-Main Drive Subdistrict and the SGA-Disposal Field Subdistrict (which are anticipated to be used in whole or in part both by Projects proceeding under this Article, and developments proceeding under Underlying Zoning), are restricted to particular uses by any Project electing to proceed under this Article.

- B. **Applicability** In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the SGA may, as a complete alternative to complying with underlying zoning and/or seeking relief from underlying zoning, elect to proceed in compliance with this Article by applying for or giving notice for Plan Approval in accordance with the requirements of this Article XX. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such application and Project shall not be subject to any other provisions of this Zoning Bylaw, but shall be governed exclusively by this Article, the Enabling Laws and any Plan Approvals issued hereunder.
- C. **Explicit Harmonizing with this Article of All Other Bylaws That Would Otherwise Be Applicable to Development of an As-of-right Project in the SGA** Notwithstanding any other general bylaw or special bylaw of the Town of North Reading to the contrary, a Project electing to be governed by the provisions of this Article shall not be required to obtain any approval from any body, board, agency, commission or other authority of the Town of North Reading, other than Plan Approval and one or more building permits and certificates of occupancy (aka certificates of compliance), with respect to any development occurring within the SGA. Without limiting the generality of the foregoing, such a Project shall not be required to seek, obtain or comply with any other permitting, review, approval, site plan approval, determination of applicability, order of conditions, or other, equivalent requirements or process pursuant to any other bylaw of the Town of North Reading, other than Plan Approval and one or more building permits and certificates of occupancy, with respect to any development occurring within the SGA. Such other bylaw requirements which shall not be applicable to such a Project shall include, without limitation, any local wetlands bylaw, any local septic bylaw, any local earth moving bylaw, and any local rule, regulation, policy or guideline promulgated in connection therewith. The development of such a Project shall be governed exclusively by applicable State law and the provisions of this Article, the Enabling Laws and any Plan Approval. To the extent such a body, board, agency, commission or other authority of the Town of North Reading is the applicable regulatory authority for implementing State law, such body, board, agency, commission or other authority shall continue to have the authority conferred on it by State law, but it is the intent of Town Meeting and goal of this Article that such body, board, agency, commission or other authority shall exercise its jurisdiction and grant waivers or other relief to the maximum extent possible to further the development of such Projects in the SGA, consistent with the requirements of State law.

§ 200-106. Permitted Uses

- A. Subject to restriction in certain Subdistricts as provided in the next two paragraphs, the following uses are permitted as of right in the SGA for each Project electing to be governed by this Article and the Enabling Laws: all uses included in the definition of an As-of-right Project. Uses not specifically permitted in this SGA by this Article are prohibited for Projects electing to be governed by this Article.
- B. Uses in the SGA-Main Drive Subdistrict shall be limited to driveways and drive lanes providing a principal means of access to any Project governed by this Article, as well as to any other development or project, on the same or other land, governed by Underlying Zoning.
- C. Uses in the SGA-Disposal Field Subdistrict shall be limited to disposal fields for treated wastewater effluent from the private sewage treatment facility serving any Project(s) which elect to be governed by this Article, provided that this limitation shall not preclude simultaneous use of

such Subdistrict for surface parking by other developments or projects governed by Underlying Zoning.

§ 200-107. Project Phasing

A Project Applicant may request a Project to be phased. For Projects that are approved and developed in phases, subject to reasonable rounding, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases. In no event shall any Project contain less than twenty dwelling units or otherwise be segmented to avoid the affordability requirements of this Article.

§ 200-108. Housing and Housing Affordability

A. Marketing Plan

- (1) Prior to granting Plan Approval within the SGA, an Applicant for such approval must submit a narrative marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with a Plan Approval application, shall include details about the number and features of units that will be designed to be accessible to the disabled. Notwithstanding the foregoing, no Project shall ever be required to have a component which is not multi-family residential in nature, or to provide both rental and homeownership opportunities.
- (2) While the Applicant of a Project developed pursuant to this Article may choose to provide three-bedroom units in a Project, in no event shall this Article or any Plan Approval granted hereunder ever require (as opposed to allow) any three-bedroom units.

- B. Number of Affordable Housing Units** For all Projects, twenty percent (20%) of dwelling units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. If and to the extent twenty-five percent (25%) of rental dwelling units constructed in a rental Project must be Affordable Rental Units in order for all of the rental dwelling units in such rental Project (i.e., market rate rental units as well) to count as low- or moderate-income units on the Subsidized Housing Inventory pursuant to 760 CMR 45.07(3), then for the rental component of such Project, twenty-five percent (25%) of dwelling units in such Project shall be Affordable Rental Units during the period such Project remains a rental Project.

C. Requirements

- (1) Affordable Housing shall comply with the following requirements:
 - (a) For any Affordable Rental Unit, the monthly rent payment, including applicable utility allowances as defined by HUD or its successor agency, shall not exceed 30 percent of the maximum gross monthly income for the applicable Eligible Household or, if greater for tenants who are participants under any governmental rent subsidy program in which the Project owner chooses to participate, the maximum rent permitted under such program. For so long as the Affordable Housing unit is used for rental housing during the term of the Affordable Housing

Restriction called for by Subsection E. below, the administering agency shall annually determine the income of each tenant of an Affordable Rental Unit. This determination shall be certified to the municipality and the Project owner on an annual basis. Any Affordable Rental Unit occupied by a certified Eligible Household at the commencement of occupancy shall be deemed an Affordable Unit so long as (x) such unit continues to be rent restricted, and (y) the tenant's income does not exceed 140% of the Base Income at the time of annual income determination. If the tenant's income exceeds 140% of the Base Income at the time of the annual income determination, then the Project owner thereafter shall be free to charge market rent for such unit, but such unit shall still be deemed to be an Affordable Unit until the next available unit in the Project with the same or greater number of bedrooms which is not then managed as an Affordable Unit is rented, provided the Project owner and administering agency make good faith efforts to rent such next available unit to a qualified Eligible Household for the affordable rent provided herein, in order to substitute such next available unit as a replacement Affordable Rental Unit.

- (b) For any Affordable Homeownership Unit the initial purchase price shall be set such that the monthly housing payment, including mortgage principal and interest (based on 30-year, fixed-interest rates at the time of sale or resale), private mortgage insurance, property taxes, condominium and/or homeowner's association fees and insurance, and assuming a down payment of five percent (5%), shall not exceed 33 percent of the maximum gross monthly income permissible for the applicably-sized Eligible Household; and the maximum resale price shall be the greater of (x) the initial purchase price, or (y) the initial purchase price increased by the percentage increase, if any, in the Boston area-wide household median income, as such area-wide median household income is determined by HUD or its successor agency, since the time of the initial sale; and the procedures to be followed by a seller desiring to sell or resell an Affordable Homeownership Unit shall be specified in the Affordable Housing Restriction called for by Subsection E. below. Such Restriction may permit an adjustment in selling price on account of closing costs and brokers' fees.
- (c) Subject to the foregoing, Affordable Housing to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

D. **Design and Construction** Units of Affordable Housing shall be finished, but unfurnished, housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be generally proportionate to the total number of bedrooms in all the units in the Project of which the Affordable Housing is part.

E. **Affordable Housing Restriction** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court prior to initial occupancy of the Project and which contains the following:

- (1) specification of the term of the affordable housing restriction which shall be no less than thirty years;

- (2) the name and address of the administering agency required by Subsection F. below, with a designation of its power to monitor and enforce the affordable housing restriction;
- (3) a description of the Affordable Homeowner Units, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms (and number of bedroom types) of Affordable Rental Units in those portions of a Project which are rental (such Restriction applying individually to specifically identified Affordable Homeowner Units, but applying generally to a percentage of rental units of the rental portion of a Project, without specific unit identification, for so long as it remains a rental development),
- (4) reference to an operational housing marketing and resident selection plan (to be developed between the Project Applicant and the administering agency under Subsection F. prior to initial occupancy of the Project, and to be consistent with those used for similar developments governed by General Laws Chapter 40B), to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for up to a 70% local preferences or such percentage otherwise permitted by law in resident selection for the Affordable Housing Units; the PAA in consultation with other Town boards shall determine the types of local preference prior to the time the Affordable Housing Restriction is executed; individuals who have a financial interest in the Project shall not be eligible to participated in local preference Affordable Housing resident selection. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to, and determinations of rent and sales prices made with respect to, a household of the appropriate size;
- (5) a requirement that residents will be selected at the initial sale or initial rental, and upon all subsequent sales and rentals, from a list of Eligible Households compiled by the administering agency in accordance with such housing marketing and selection plan;
- (6) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set, consistent with Subsection C. above;
- (7) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders as reasonably determined by the DHCD;
- (8) a requirement that, subject to Subsection C. above, only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the administering agency;
- (9) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
- (10) provision that the Restriction on an Affordable Homeownership Unit shall run with only such Unit, and shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household, consistent with Subsection C. above;

- (11) provision that the restriction on Affordable Rental Units in the rental portion of a Project shall run generally with such entire rental portion of the Project for so long as it remains a rental development during the term of the Restriction, shall run in favor of the administering agency and/or the municipality, in a form reasonably approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household, consistent with Subsection C. above;
- (12) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the administering agency, in a form agreed to between such owner or manager and such administering agency, certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
- (13) a requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability;
- (14) provision permitting owners of the rental portions of a Project to convert the same to condominium ownership and to sell condominium units, provided that appropriate arrangements are made to convert all Affordable Rental Units to Affordable Homeownership Units in connection with such conversion;
- (15) provision that each owner of a restricted Affordable Housing Unit shall have the right to receive notice of any and every alleged default, violation or breach of the applicable Restriction respecting such owner's unit(s), and an opportunity to cure the same for least sixty (60) days thereafter; and
- (16) provision that each Project mortgagee shall have right to receive such notice of alleged default, violation or breach, and the option at its sole discretion (but not the obligation) to cure any default, violation or breach of any affordability Restriction applicable to its mortgage collateral for a further period of sixty (60) days after the end of the 60-day period provided in item (15) above.

F. **Administering Agency** The Citizens Housing and Planning Association ("CHAPA"), a Massachusetts non-profit corporation, shall be designated the monitoring and administering agency. Prior to occupancy of the Project, the Project applicant shall enter into a mutually acceptable monitoring services agreement with such administrative agency. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified state or regional non-profit housing entity mutually designated by the then-owner of the Project and the PAA or, in the absence of such timely designation, by such an entity designated by the DHCD. In any event, such agency shall ensure the following, all in accordance with this Article:

- (1) prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed;
- (2) income eligibility of households applying for Affordable Housing is properly and reliably determined;
- (3) the housing marketing and resident selection plan conforms to all requirements and is properly administered;

- (4) sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;
 - (5) Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;
- G. **Administering Agency Fees** The monitoring services agreement with the administering agency may make provision for payment by the Project applicant of reasonable and customary costs to the administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. In the case of Affordable Rental Units, such payment shall not be required to exceed a one-time initial fee of \$7,500, plus \$200 per year per Affordable Rental Unit. In the case of Affordable Homeownership Units, such payment shall not be required to exceed one-half one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable, and, in the case of payments due upon resale, shall be due and payable only by the selling homeowner and not by the original Project applicant, or its corporate successors or assigns.
- H. **Age Restrictions** The District shall not include the imposition of restrictions on age upon the entire District, but as one or more Applicants may voluntarily determine, the development of specific Projects, or portions thereof, within the SGA may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and that twenty percent (20%) of the housing units (or twenty-five percent (25%) as and to the extent required by Subsection B. in such a restricted Project shall be restricted as Affordable Housing units. Any project which includes age-restricted dwelling units shall comply with applicable federal and state fair housing laws and regulations.
- I. **Phasing** For a Project that is approved and developed in phases, which an applicant may voluntarily elect to do, insofar as practicable the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as described in 760 CMR 59.04 1(h)) shall be consistent across all phases (subject to reasonable rounding).
- J. **Computation** Prior to the granting of any certificate of occupancy (aka certificate of compliance) for the housing component of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the PAA, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to North Reading.
- K. **No Waiver** Notwithstanding anything to the contrary herein, the Affordability provisions in this §200-108 shall not be waived.

§ 200-109. Dimensional and Density Requirement

- A. Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGA are as follows:

Lot and Building Requirement	Dimensional Requirement
Minimum Lot Area	Five (5) acres.
Minimum Lot Frontage on a Public Way (access may, but is not required to be, over such frontage; access may, in whole or in part, be via easement)	250 feet
Maximum Building Height (measured from the average ground height adjoining at the exterior walls of a building to highest point on the roof of the building, exclusive of decorative cupolas, weather vanes, chimneys and vent structures, antennas, satellite dishes, mechanical penthouses and other structures or enclosures not intended for human habitation)	60 feet
Minimum Front Setback of any Building (measured from and perpendicular to that one public way existing as of January 1, 2006 and providing the Minimum Required Frontage for a Project; driveways, drive lanes and landscaping -- but not parking -- may be located within Minimum Front Setback areas)	40 feet

Minimum Rear Yard Setback of any Building (measured from and perpendicular to that one lot line for the Project which is fundamentally opposite the one public way providing Minimum Required Frontage for the Project; accessory buildings, structures and uses, including without limitation parking and private sewage treatment facilities, may be located within Minimum Rear Yard Setback areas)	25 feet
Minimum Side Yard Setback of any Building (measured from and perpendicular to all those lot lines which are neither the one lot line providing Minimum Required Frontage or that one lot line from which Minimum Rear Yard Setback is measured; accessory buildings, structures and uses, including without limitation parking and private sewage treatment facilities, may be located within Minimum Side Yard Setback areas)	5 feet
Minimum Open Space (being the portion of a Project lot not occupied by buildings, parking, garages, driveways and driveways, but which shall include, among other areas, all landscaped areas, all unbuilt areas, all sidewalks and walkways, and all swimming pools, tennis courts and other recreational facilities primarily open to the sky, whether or not hardscaped)	20%
Allowable Dwelling Units/Acre in the Multi-family Residential Subdistrict	20

Minimum Setback between Principal Buildings (measured at the closest point between any two Principal Buildings)	25 feet
Minimum Setback between either (a) Accessory Buildings, or (b) Principal Buildings and Accessory Buildings	5 feet
Minimum Dimensional Requirements / Locational Requirements for Private Wastewater Disposal Facilities (i.e. disposal fields) Serving a Project	None except as follows: May be located anywhere within the SGA, subject to compliance with applicable State law, and may also be located on permanent easement area(s) off of a Project lot, provided such permanent easement area(s) is/are located within the SGA; the use of such an easement area for such wastewater disposal facilities shall not preclude the use of the surface of such area for parking, either for the Project or for any other development or project electing to remain governed by Underlying Zoning.
Multiple Buildings on One Lot	Allowed

No Improvements in Zone A Flood Areas	No Project improvements other than creation of ponds or stormwater detention or retention areas, and associated structures, filling for landscaping and open space areas, and other creation of compensatory flood storage, not in excess of 40,000 square feet, shall be located within any federally-designated Zone A flood area shown on the Flood Insurance Rate Map for the Town of North Reading, dated June 16, 2004 and further described in the Flood Insurance Study (FIS) for the Town of North Reading dated April 3, 1978, and revised June 16, 2004, as the location of such flood area may be altered by a Project Applicant pursuant to provisions of applicable law.
No Improvements in Wetlands or 12 Foot Buffer to Wetlands	No Project improvements shall be located in (a) any wetland resource area governed by General Laws Chapter 131, Section 40, or (b) within a buffer area, twelve (12) feet in width, on the upland side of such wetland resource areas (other than in the case of any 200-foot riverfront areas, which shall have no additional buffer).
Maximum impervious area within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law). Impervious area shall mean only areas permanently covered by buildings, concrete, asphalt pavement and the like; without limitation, lawns, other vegetated areas, mulched or graveled areas and other areas landscaped with pervious or semi-pervious surfaces, shall never be considered to be impervious.	25% of such area

Maximum alteration of land within 100 feet of any wetland resource area governed by General Laws Chapter 131, Section 40 (other than any riverfront areas, which have no buffer under such law).	75% of such area
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- B. Interpretation of Table** All dimensional requirements shall be computed on a project by project basis. The front setback of within the SGA shall apply only to front yards abutting a public way existing on January 1, 2006; and for any other street, way, driveway or drive lane not so laid out and accepted, there shall be no front setback requirement, and thus no mirroring rear yard setback either.

§ 200-110. Parking Requirements

- A. Notwithstanding anything to the contrary in this Zoning Bylaw, the parking requirements applicable to each entire Project in the SGA are as follows:

Residential Use (Minimum)	1.5 spaces per unit
Residential Use (Maximum)	2.0 spaces per unit

- B. Interpretation of Table** In no event shall any separate parking be required for, or attributed to, clubhouses, swimming pools, tennis courts or other recreational facilities, private sewage treatment facilities, or other accessory buildings, structures or uses.

§ 200-111. Design Standards

- A.** Intent. In order to ensure high-quality development within the SGA and to ensure design that respects the built and natural character of North Reading, the following design standards are established. These standards are intended to be applied flexibly by the Plan Approval Authority as appropriate to the Project as part of the site plan review process to enable the purpose of this District to be realized, and in recognition of the as-of-right nature of Projects proceeding under this Article. These standards apply to all site improvements and buildings and structures to enhance the appearance of the built environment within an SGA.

A. Building and Structure Placement/Appearance

- (1) Where Project buildings abut lots outside the SGA that include residential or public recreation uses per Underlying Zoning, and substantial natural vegetation does not remain, provide a landscaped buffer between Project buildings and such abutting lots.
- (2) Where practicable and desired by the PAA, preserve attractive views from publicly accessible major vantage points along public streets or on town-owned open space.

- (3) Building facades fronting public streets shall be of similar or greater quality and design as compared to the remaining facades of the same building.
- (4) Rooftop equipment, building mechanical equipment, garbage management equipment and maintenance work areas shall be visibly screened from public streets and abutting lots that include residential or public recreational uses.
- (5) Building and structure placement shall not prevent access to open space in the project.
- (6) Buildings shall not be longer than 300 feet. Facades shall not continue unbroken for longer than 75 feet.
- (7) Buildings should be constructed as part of a single architectural plan that is consistent throughout the project, whether buildings are constructed in phases or not.

B. Landscaping

- (1) All open areas, exclusive of areas to remain in an existing natural state shall be landscaped utilizing both natural and man-made materials such as grasses, trees, shrubs, paving materials and outdoor furniture that are appropriate to the local climate and anticipated uses of the project.
- (2) Deciduous street trees (typically growing to no more than 30 feet in height) shall be placed along both sides of new drive lanes. All street trees along drive lanes or around parking lot perimeters shall be placed at a maximum spacing of 75 feet on center. In parking lots with greater than six spaces, street trees shall be placed at parking lot perimeters and/or on parking lot islands, such that no parking space is more than 75 feet from the nearest street tree.
- (3) A minimum of four different species of street trees shall be used. Below is a list of Town recommended street trees:
 - Acer Rubrum - Red Maple
 - Fraxinus Americana - White Ash
 - Fraxinus Pennsylvanica - Green Ash cultivars
 - Gleditsia Triacanthos inermis - Thornless Honeylocust
 - Plantanus Acerifolia - London Planetree
 - Pyrus Calleryana - Bradford Pear cultivars
 - Quercus Rubra - Red Oak
 - Tilia Cordata - Littleleaf Linden
 - Tilia Tomentosum - Silver Linden
- (4) Outdoor lighting shall be provided in drive lanes and parking areas. Outdoor lighting shall be located and designed to prevent direct light from shining onto any abutting lot used for residential or public recreational uses per Underlying Zoning. Direct or indirect lighting shall not cause total illumination in excess of 1.5 foot candles when measured at any point vertically above the boundary of an abutting public street or an abutting lot that includes residential or public recreational uses per Underlying Zoning.

- (5) Landscaped buffer shall consist of natural or landscaped area at least ten feet wide. Where natural or existing plantings are not present, new plantings shall provide a visual screen that begins at or near ground level and, when mature, will provide a minimum height of at least eight feet. At least fifty percent of the plantings shall consist of evergreens. Buffers may be interrupted to provide for the entrance and exit of vehicular and pedestrian traffic. New shrub plantings in buffer areas shall be a minimum of four feet in height at time of planting. New evergreen trees shall be a minimum of six feet in height at time of planting.
- (6) All required landscaping shall be maintained in good condition at all times.

C. **Pedestrian Amenities and Recreation**

- (1) All buildings and on-site open spaces shall be connected by pedestrian routes. Pedestrian routes may include, but are not limited to, paved sidewalks, paved parking lots and unpaved paths.
- (2) Pedestrian routes shall connect to existing public pedestrian walkways and existing public sidewalks abutting the Project site.
- (3) Where practicable and desired by the PAA, pedestrian routes shall connect the project site to existing abutting public recreational areas, provided that (a) no wetlands crossings, and (b) no paths or pedestrian routes in other locations subject to other regulatory approval beyond Plan Approval under this Article, shall ever be required by the PAA to be provided by or as part of the Project.
- (4) Passive and/or active private recreational areas shall be provided at a size, type and scale appropriate for the number of units proposed. Nearby existing public recreational facilities connected to the site via a pedestrian path may accommodate all or part of this requirement.

D. **Signage**

- (1) The following signage is permitted within the SGA, all other signs are prohibited without the special permit of the PAA.
 - (a) Two identification signs, not exceeding twenty-four square feet each, at each public entrance to a multi-family development;
 - (b) Signs bearing the name and/or address of a building, not to exceed four square feet in area each;
 - (c) Real Estate signs, located on-site, not to exceed six square feet in area, and real estate sale or rental banners attached to buildings on site, each not more than four feet in width and 100 feet in length. Such signs shall be removed forthwith upon sale or rental of the premises advertised;
 - (d) Reflecting street name signs and signs erected for the direction, convenience and control of vehicular and pedestrian traffic; each of said signs shall be no more than three (3) square feet in area per side, or as allowed and/or required by Massachusetts General Law;

- (e) Signs on or adjacent to the entry of a multiple occupancy building listing the occupants thereof, provided that the size of such sign shall not exceed one square foot for each occupant or a total of twenty square feet, whichever is smaller and provided further that there shall be only one such sign per building;
- (f) One contractor's sign and one lender's sign, each not exceeding twelve square feet in area maintained on the premises while construction is in progress and containing information relative to the project. Such signs shall be set back at least feet from the street lot line and shall be removed promptly after the completion of construction;
- (g) Political signs not exceeding sixteen square feet each provided that such signs are placed on private property and do not create a safety hazard. Such signs shall be removed not later than seven days after the election; and
- (h) Temporary "grand opening" signs not to exceed 40 square feet each and for a period of time not to exceed 14 days.
- (i) All permanent signs, except traffic signs, shall be made of natural materials or have a natural appearance.
- (j) Neon signs and similarly styled signage with interior illumination is prohibited; as are any façade components [e.g. trim] that feature neon or similar illumination. Moving or flashing signs; signs illuminated by or including any flashing or oscillating light; electronic billboards and reader boards; strings of pennants or so-called "whirligigs" and the like are not permitted. Flashing or animated signs of any color shall not be permitted.

E. Private Parking Lots, Driveways and Drive Lanes

- (1) The Project may include private parking lots and driveways, which provide unenclosed paved spaces for parking and the direct vehicular access to said parking spaces.
- (2) The Project may include private drive lanes, which provide access from the public street system and provide vehicular circulation through the project. Drive lanes do not provide for the parking of vehicles.
- (3) All private parking lots, driveways and drive lanes shall remain privately owned. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes, shall specify that they are and shall remain private.
- (4) The maintenance of private parking lots, driveways and drive lanes, including, but not limited to snowplowing, patching and repaving, shall remain the responsibility of the owner. All deeds conveying any portion of the land or structure containing private parking lots, driveways or drive lanes shall note the this private responsibility of maintenance.
- (5) Where project parking areas with more than six parking spaces abut lots outside the SGA district that include residential or public recreational uses per Underlying Zoning, provide a landscaped buffer between such parking area and such abutting lot.

(6) Parking lots shall comply with the following:

- a) Min. aisle width for two-way traffic:----- 22 feet
- b) Min. aisle width for one-way traffic:----- 12 feet
- c) Min. centerline curve radius:----- 25 feet
- d) Min. intersection curb corner radius:----- 5 feet
- e) Min. grade:----- 1%
- f) Max. grade:----- 5%
- g) Min. parking space length:----- 18 feet
- h) Min. parking space width:----- 9 feet
- i) Compact space length:----- 16 feet
- j) Compact space width:----- 8 feet
- k) Max. number of compact spaces:----- 20% of total parking

7) Drive lanes shall comply with the following:

- a) Min. pavement width for two-way traffic:----- 24 feet
- b) Min. pavement width for one-way traffic:----- 14 feet
- c) Min. centerline curve radius:----- 100 feet
- d) Min. tangent between reverse curves:----- 100 feet
- e) Min. intersection curb corner radius:----- 15 feet
- f) Min. cross slope grade:----- 1.5%
- g) Max. cross slope grade:----- 3%
- h) Min. centerline profile grade:----- 1%
- i) Max. centerline profile grade:----- 9% (4% within 25 feet of an intersection)

8) Any change in centerline profile grade greater than 1% shall be made with a vertical curve.

F. **Storm Drainage**

- (1) Storm water runoff shall comply with the Massachusetts DEP (Department of Environmental Protection) Stormwater Management Policy.
- (2) Peak flows and run-off at the boundaries of the Project shall be no higher following development than before development, for the 10 and 25 year storm events using either the SCS TR-55 or TR-20 methods. Stormwater recharge to groundwater is encouraged where practicable.
- (3) Capacity of drainage systems shall be adequate to carry all storm water run-off presently flowing through the proposed Project area, as well as to dispose of any additional run-off generated by the proposed Project up to and including the run-off from a one hundred year storm using the following methods:
 - (a) the flow from storms of up to a twenty-five year frequency and a twenty-four hour duration shall be conveyed through the storm drain system on the developed site. Storm drain piping and grate inlets shall be designed for a 25 year storm event;
 - (b) Detention facilities and culverts shall be provided to accommodate all run-off, up to and including the run-off generated by the one hundred year, twenty-four hour

storm. As a minimum, detention basin routing calculations shall be prepared for the ten, twenty-five and one hundred year storm events.

- (4) Drainage pipe systems shall be designed to provide self-cleaning flow velocities.
- (5) Maximum total depth of detention/retention area shall be six feet as measured from the lowest outlet point to the lowest point of the emergency overflow.
- (6) Outlet control structures shall be designed to minimize required maintenance for proper operation.
- (7) Each storm water detention/retention area shall be provided with a method of emergency overflow in the event of a storm in excess of the one hundred year frequency type.
- (8) Drainage system may discharge to an existing, adjacent Town drainage system if the Applicant can show that the Town drainage system provides sufficient excess capacity to accommodate both the existing runoff and the proposed additional runoff from the project during a twenty-five year frequency and a twenty-four hour duration storm event.
- (9) Hydraulic calculations, prepared by a registered professional engineer, shall note the specific engineering and/or computer program to be used. Hydraulic calculations shall be submitted to substantiate all design features of any proposed or existing drainage system utilized by the project. Computations for run-off shall be made in accordance with standard engineering practice. Hydraulic calculations shall include the following:
 - (a) Runoff area boundaries shown on a plan
 - (b) Methodology used
 - (c) Soil/land use characterization and design storm parameters
 - (d) Soil conditions / ground water
 - (e) Pipe size calculation
 - (f) Detention / retention pond and outlet control calculations as applicable
 - (g) Total suspended solid (TSS) removal rates and calculations
 - (h) Infiltration calculations as applicable
 - (i) Culvert analysis and calculation as applicable
- (10) A continuous design element (i.e. railing or hedge) shall border any detention/retention basin area with interior side slopes greater than 3:1. Drainage basins shall be designed to facilitate access for maintenance vehicles and personnel.
- (11) If it is necessary to carry drainage across lots within the development, storm drainage easements shall be provided, of such width and construction as will be adequate to accommodate the volume and velocity of the run-off. However, no such easement shall be less than twenty feet (20') in width.
- (12) If a proposed drainage system will carry water across land outside the development boundaries to an approved outfall, appropriate drainage rights shall be secured by the applicant at the applicant's expense, and shall be referenced on the 40R Plan.
- (13) Retention and detention ponds, and methods of overland flow may be used to retain, detain and treat any increased and accelerated runoff which the development may generate.

- (14) There shall be a minimum of two feet of naturally occurring soils between the detention basin bottom and the maximum annual ground water table;
- (15) Intermittent surface water courses and such as swales, forebays, detention/retention basins shall be vegetated and appropriately reinforced along the low flow channel.
- (16) The use of drainage facilities coordinated with landscaped buffers, open space and conservation areas is encouraged.
- (17) Neighboring properties shall not be negatively impacted by flooding due to excessive runoff caused by the development within the SGA.

G. Utilities – Basic Requirements

- (1) Utilities shall include potable water supply, sanitary sewerage, electricity distribution, electronic communications (not to include satellite or antenna type communications) and natural gas distribution.
- (2) All utility conduits shall be installed underground. All utilities installed beneath paved surfaces shall be installed prior to the placement of subbase.
- (3) Installation: All utility lines, and/or other subsurface facilities within the street rights-of-way shall be installed prior to the placement of the roadway subbase materials. All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to, telephone and community antenna television cable.
 - (a) Identification: The applicant shall provide and install utility identification in accordance with the applicable specifications and standards of each applicable utility company providing service to the project.
 - (b) If it is necessary to provide utility connections across lots within the development, utility easements shall be provided, of such width and construction as will be adequate to accommodate the required utility infrastructure. However, no such easement shall be less than twenty (20) feet in width, whether for an individual utility or accommodating two or more utility lines.
 - (c) Submitted utility plans shall include the location of all utilities and include the following:
 - [1] Hydrant locations;
 - [2] Water valve and gate locations;
 - [3] Connections to water supply;
 - [4] Sanitary sewage collection, treatment and disposal system;
 - [5] Sanitary sewage pumps if applicable;

H. Water Facilities

- (1) The applicant shall be responsible for installing water facilities, including, but not limited to water supply, pipes, hydrants, hydrant markers, gates, valves, and all other related appurtenances. Any extension of an existing pipe and construction of new pipes requires approval from the North Reading Water Department.

- (2) Fire hydrants shall be required. Fire hydrants, with hydrant markers, shall be located not more than five hundred feet apart.
- (3) Reasonable provisions shall be made for extension of the water system and pipes to adjoining property, including installation of water gates. Appropriate easements may be required.
- (4) If the municipal water supply is available, but the minimum required flow is not available, the Applicant shall propose either (a) to extend the municipal water system or (b) provide an alternative system for providing water supply and fire protection.

I. Sewer

- (1) If there is not adequate public or private sewage capacity available for a Project electing to be governed by this Article and the Enabling Laws, then the Applicant for such Project shall (a) commence construction of a private sewage treatment facility providing all necessary sewage treatment capacity for the Project no later than three (3) years after the date the Town of North Reading actually receives the Zoning Incentive Payment provided by the Enabling Laws, and (b) complete such facility no later than January 31, 2011. Both such dates shall be subject to extension for any period during which such Project is subject to any legal or administrative appeal, and during all periods when such Applicant is actively pursuing other required periods, and during all other periods when there is other good cause for the failure to meet such dates, as determined by DHCD. The Town shall not make presentation for payment, or accept payment, of the Zoning Incentive Payment provided by the Enabling Laws (as opposed to acceptance of the State scrip authorizing such Payment on later presentation of such scrip to the State, which scrip the Town shall be authorized to accept and hold without presentation) prior to the date on which the Applicant of the first Project proceeding under this Article has received all licenses, permits and approvals necessary to construct such proposed Project, and all such licenses, permits and approvals are final beyond all possibility of appeal. Further, the Town shall make presentation for payment of the Zoning Incentive Payment from time to time only up to the cumulative amount represented by the number of dwelling units in all Project(s) in the SGA which have received all such final licenses, permits and approvals.
- (2) Without limiting the generality of the foregoing, the Applicant shall provide a private sanitary sewage collection, treatment and disposal system for the Project. Such sanitary sewage system or systems shall be designed to comply with applicable State standards and permitting under all applicable State laws and regulations.

J. Electric and Communication Lines

- (1) All electrical and communications lines shall be installed underground. Communications lines shall include, but not be limited to telephone, television cable and computer broadband.
- (2) Electric transformers shall be constructed above ground and screened from view.

§ 200-112. Application for Plan Approval

- A. **Pre-application.** Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following.
- (1) Overall building envelope areas;
 - (2) Open space and natural resource areas;
 - (3) General site improvements, groupings of buildings, and proposed land uses.
- B. **The Concept Plan.** is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the design standards and other requirements of the SGA.
- C. **Full Buildout Required to be Shown for Plan Approval** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fees which shall be as set forth in the PAA Regulations. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.
- D. **Required Submittals** The application for Plan Approval shall be accompanied by the following plans and documents. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA. The required plans and documents are:
- (1) Architectural ground and/or first floor plans and major elevations of each building type proposed.
 - (2) Architectural rendering of typical building appearance that account for topography.
 - (3) Sample of materials proposed for the construction of building facades.
 - (4) Signage master plan, to include overall design, sign locations, and size and materials of signs.
 - (5) Site layout plan, including all easements and dimensions necessary to verify compliance to design standards.
 - (6) Drainage and grading plan with construction details.
 - (7) Site utility plan with construction details and limits of work.
 - (8) Photometric calculation plan.
 - (9) Drainage calculations.

§ 200-113. Procedures

- A. **PAA Regulations** The Permit Approval Authority has adopted limited, procedural rules and regulations entitled "Rules and Regulations of the North Reading Permit Approval Authority, Chapter 40R," dated March 2006, and approved by the Department of Housing and Community Development on April 2006, 2006 (the "PAA Regulations"). Such rules and regulations are on file in the Office of the Town Clerk.

- B. **Filing** An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be delivered forthwith to the PAA by the Town Clerk.
- C. **Circulation to Other Boards, Commissions and Agencies** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Community Planning Commission, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards as determined by the PAA for comment, and any such board, agency, commission or officer shall provide any written comments within 60 days of its receipt of a copy of the application.
- D. **Hearing** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan and shall constitute a Plan approval under this Article.
- E. **Peer Review** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L.c. 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith.. Peer review under this Section shall be conducted, and fees therefore shall be charged, only and strictly in compliance with Guideline II.C of the “Local 40B Review and Decision Guidelines” dated November, 2005, issued by the Massachusetts Housing Partnership.
- F. **Substitution of Comprehensive Permit Plan Approved by Zoning Board of Appeals for Plan Approval in SGA**
- (1) Notwithstanding any other provision of this Article to the contrary, if an Applicant for a Project electing to be governed by this Article and the Enabling Laws has, at any time after the date of application to DHCD for approval of this Article and the Berry Center Residential SGA, obtained a Comprehensive Permit for a residential project from the Zoning Board of Appeals of the Town of North Reading (which is also designated to be the PAA under this Article), or the State Housing Appeals Committee, pursuant to G.L. Chapter 40B (as the Comprehensive Permit may have been modified by order of the Housing Appeals Committee or court order at the time of the notice given by the Applicant, as provided below in this Section), which residential project would be located in the SGA and would otherwise meet the affordability, use and dimensional requirements of this Article (but without regard to the Design Standards of this Article), then such Applicant shall have the right (but not the obligation) to treat and deem the portions of such Comprehensive Permit which deal with site plan and design requirements as the Plan Approval called for by this Article and as substitute compliance for the compliance with the Design Standards which otherwise would be applicable under this Article.

- (2) If the Applicant wishes to exercise its right under this Section, the Applicant shall file with the Town Clerk and, via the Town Clerk, the PAA (as provided in Subsection B. above) notice of the Applicant's intent to proceed with the Project pursuant to such deemed Plan Approval pursuant to this Section. In such case, the Applicant shall include a copy of such Comprehensive Permit with such notice and shall identify with particularity in such notice the precise conditions of the Comprehensive Permit, or precise applicable portions of such precise conditions, which shall be treated as such deemed Plan Approval by the PAA hereunder. In no event shall such Applicant who has finally elected to develop its Project under this Article, rather than developing pursuant to the Comprehensive Permit as such, ever be required to comply with any provisions of the Comprehensive Permit other than such site plan and design requirements.
- (3) The PAA shall immediately provide copies of such notice to the other Town bodies, agencies, commissions and officers as provided in Subsection C. above, but the time available by comment by them on such notice shall be reduced to fourteen (14) days. The PAA shall hold the public hearing called for by Subsection D. above, with respect to such notice, and shall either (x) confirm such deemed Plan Approval as set forth in the Applicant's notice, or (y) identify with particularity any other precise conditions, or precise portions of such precise conditions, in the Comprehensive Permit which the PAA reasonably believes constitute site plan and design requirements of the Comprehensive Permit and include the same in such deemed Plan Approval pursuant to this Section, and state in details the PAA's findings supporting such belief. In either case, such decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within forty-five (45) days of the receipt of such notice from the Applicant by the Town Clerk. Such required time limits may be extended by written agreement between the applicant and the PAA as provided in Subsection D. above. Failure of the PAA to take final action within such 45-day period under this Section, or such extended time, if applicable, shall be deemed to be an approval of the application/notice for approval and shall constitute a Plan Approval for purposes of this Article.
- (4) An Applicant electing to proceed pursuant to this Section shall have the option at any time prior to the issuance of the first building permit for the Project of electing either (a) to be governed exclusively by the terms of the Comprehensive Permit in its entirety, or (b) to be governed exclusively by this Article, the Enabling Laws and the deemed Plan Approval pursuant to this Section. Such election shall be made in writing by the Project Applicant by notice to the PAA and the Zoning Board of Appeals and the Town Clerk and may be revoked, rescinded or changed by such Applicant only prior to the date the first building permit for the Project is issued.
- (5) In light of the prior reviews leading up to any Comprehensive Permit, and the expedited process provided by this Section, no additional filing fee, review fee, or other charge may be made by the PAA, and no Peer Review will be required or conducted, with respect to any notices or filings by the Applicant under this Section.

§ 200-114. Decision

- A. **Waivers** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Article XX, including the design standards of §200-111, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGA, or if it finds that such waiver

will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this §200-102, or if failure to grant the requested waiver would Unduly Restrict the proposed Project .

- B. **Plan Review** An application for Plan Approval or notice for deemed Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such plan review shall be construed and conducted as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. Accordingly, the PAA shall not unreasonably withhold, condition or delay any requested Plan Approval or deemed Plan Approval for an As-of-right Project in the SGA.
- C. **Plan Approval** Plan Approval shall be granted where the PAA finds that:
- (1) the applicant has submitted the required fees and information as set forth in the Regulations; and
 - (2) the Project and site plan meet the requirements and standards set forth this Article XX, or a waiver has been granted therefrom; and
 - (3) extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.
- D. **Plan Disapproval**
- (1) A requested Plan Approval may be disapproved, but only where the PAA reasonably finds in writing, with particularity, that:
 - (a) the applicant has not submitted the reasonably required fees and information as set forth in the Regulations; or
 - (b) the Project and site plan do not meet the reasonable requirements and standards set forth this Article XX, and a waiver cannot be granted therefrom; or
 - (c) it is not possible to adequately mitigate significant adverse project impacts on abutting properties by means of suitable conditions.
 - (2) This §200-114.4 shall not apply to deemed Plan Approvals pursuant to §200-113.6, which cannot be denied.
- E. **Form of Decision** The PAA shall issue to the applicant a copy of its decision, whether under §200-113.4 or §200-113.6, containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application or notice. A copy of the decision or application or notice bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

F. **Freeze During Process; Effectiveness and Validity of Final Plan Approval After Process.**

- (1) An application to the PAA for Plan Approval, or notice to the PAA requesting confirmation of deemed Plan Approval, as the case may be, shall be governed by the applicable provisions of this Article in effect at the time of the submission of the application or notice, while the plan or notice is being processed, during the pendency of any appeal, and for three (3) years after approval or deemed approval. If an application is denied, such provisions in effect at the time of the application shall continue in effect with respect to any further application filed within two (2) years after the date of the denial, except as the Applicant may otherwise choose.
- (2) A Plan Approval or deemed Plan Approval, and any and all minor changes thereto sought by an Applicant, shall remain valid and shall run with the land indefinitely, and a Project shall be governed by the applicable provisions of this Article in effect at the time of the submission of the original application or notice for such original Plan Approval (without regard to applications for minor changes) indefinitely, provided that construction of the Project covered by such Plan Approval has commenced within the meaning of the Enabling Laws within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be further extended as provided in a Plan Approval for a multi-phase Project. Such commencement of construction of the first phase of a Project covered by such Plan Approval within such two (2) year period, as so extended, shall constitute the timely commencement of construction of all phases of the entire Project for the purposes of this Section. The PAA may impose, but shall not be required to impose, such outside time limits for the commencement of the final phase of a phased Project as it sees fit, provided that the earliest date for such commencement of such final phase shall not be earlier than five (5) years after the Plan Approval decision is issued, as extended as provided above, nor later than fifteen (15) years after the Plan Approval decision is issued, as extended as provided above, and further provided that any failure to meet such outside time limits shall only affect the right to construct the unbuilt phase(s) and shall not affect the previously constructed phase(s) or the respective rights of the same. In the event of a casualty affecting a building or structure which itself, or the use thereof, would be nonconforming with the provisions of this Article but for the grandfathering provided by this Section, such structure may be repaired, rebuilt and/or reconstructed, as necessary, provided that any such repair, rebuilding or reconstruction shall be commenced within two (2) years after the date of such casualty, and shall thereafter be diligently and continuously prosecuted to completion. Except as provided in any one or more of the preceding sentences of this paragraph, any amendment to this Article shall apply to building permits applied for after the first notice of public hearing on such amendment.
- (3) The owner of a Project, or applicable portion thereof, may choose to waive the benefit of the provisions of this Section in writing.
- (4) No further Plan Approval, special permit, variance or the like shall ever be required to reconstruct a Project, or portion thereof, following any casualty.

- (5) On the other hand, any Alteration or Extension of a Project which would not conform to the then-existing provisions of this Article shall require a further Plan Approval or deemed Plan Approval.
- (6) For purposes of this Section: “Alteration” means any construction resulting in a material change in the structural parts or height of, or number of stories or size of, a building or other structure, or to permit a Substantially Different Use of such building or other structure; and “Extension” means any material increase in physical size or a Substantially Different Use.

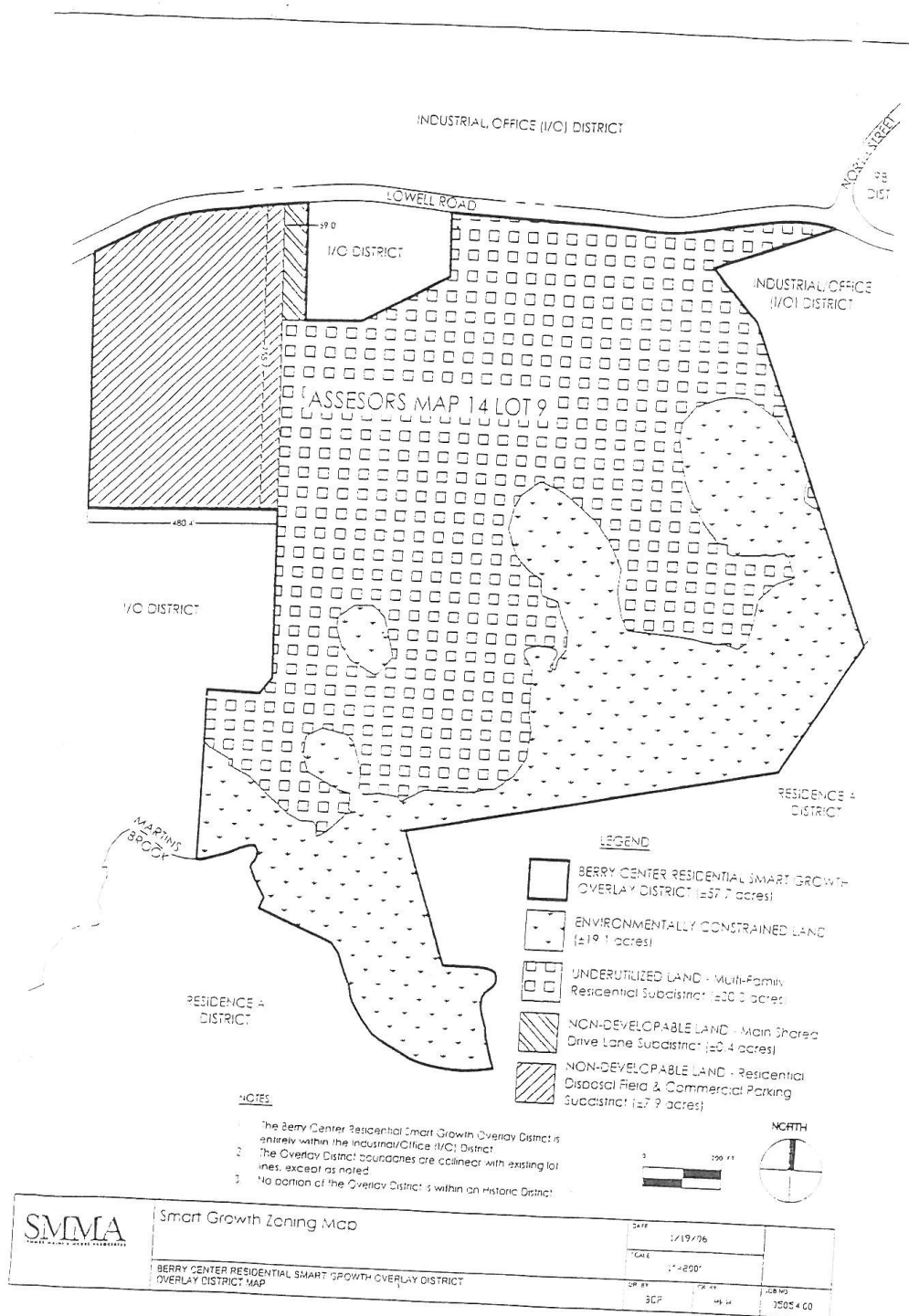
§ 200-115. Change in Plans after Approval by PAA

- A. **Minor Changes** After Plan Approval or deemed Plan Approval, an Applicant may from time to time apply to make changes involving utility or building orientation adjustments, adjustments to parking, landscaping, massing and/or other adjustments to site details that do not materially affect the overall buildout or building envelope(s) on the Project or overall provision of open space, do not increase the number of dwelling units by more than five percent of the previously described number of housing units included in the previous Plan Approval or deemed Plan Approval, and/ or affordability percentages or features, all of which shall be considered to be minor changes. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision issued within thirty (30) days after the Applicant has filed its application therefore, and the PAA shall provide a copy to the Applicant for filing with the Town Clerk.
- B. **Major Changes** Those changes not included in the preceding description of minor changes, which changes are also found by the PAA to constitute a major change because of the nature of the change in relation to the prior Plan Approval, shall be processed by the PAA as a new application for Plan Approval pursuant to this Article.

§ 200-116. General Administration and Enforcement

- A. This Article shall be enforced by the Building Inspector, who may require the submission of plans, specifications and other information which he deems to be necessary to determine compliance with its provisions. No building shall be constructed, reconstructed, enlarged, altered, moved, removed or demolished as part of a Project governed by this Article without obtaining a building permit. The Building Inspector shall withhold such building permit if such building or such activity included in such a Project governed by this Article, would be in violation of this Article. No actual use and occupancy (as opposed to construction and/or break-in period testing) of a building, a lot, or a portion of either of them shall be commenced or changed without the issuance by the Building Inspector of a certificate of compliance. The Building Inspector shall withhold such certificate of compliance unless the Building Inspector is satisfied that all work has been completed in accordance with the provisions of the applicable approved permits and of the applicable provisions of this Article, and that the proposed use will be in conformity with the applicable provisions of this Article. The Building Inspector shall not issue a building permit for a Project until he is reasonably satisfied that a Plan Approval or deemed Plan Approval has issued for the Project. Any building permit issued by the Building Inspector shall become invalid unless the work authorized

by it shall have been commenced within the meaning of the Enabling Laws within six (6) months after its issuance, which shall be automatically extended for the duration of any appeal or challenge to such building permit or any Plan Approval, deemed Plan Approval or other permit required for the Project or any portion thereof, and which may be further extended, as allowed in writing by the Building Inspector, for one (1) or more extensions of time not exceeding ninety (90) days each.



Town of North Reading, MA

ARTICLE XXI

AFFORDABLE HOUSING OVERLAY DISTRICT

[Added 4-7-2008 ATM by Art. 26, approved 6-27-2008]

§ 200-117. Purposes.

The purposes of the Affordable Housing Overlay District are to create affordable housing opportunities in the Town of North Reading; to provide for a diverse, balanced and inclusive community, with housing for persons of all income levels as a matter of basic fairness and social responsibility; to assure that affordable housing is made available on an equal basis to all eligible households without regard to race, religion, age, sex or other class status as defined in the federal Fair Housing Act of 1968, as amended; to provide a mechanism for parcels to be used for affordable or mixed-income housing; and to assist the Town of North Reading in creating affordable housing units eligible for the Chapter 40B Subsidized Housing Inventory.

§ 200-118. Applicability.

This bylaw applies to any property to be placed within the Affordable Housing Overlay District and shall include the following parcels that are listed below and are shown in the North Reading Affordable Housing Overlay District Map on file in the Community Planning Department.

Area	Map and Parcel	Street Name	Street No.
9,418	08-020	ALGONQUIN RD	25
6,484	08-030	BROOKSDALE RD	22
69,008	08-056	OLD ANDOVER RD	23
3,016	08-224	EDGEWOOD TER	13
3,661	08-237	HOMESTEAD TER	14
4,621	08-238	HOMESTEAD TER	16
3,364	08-239	HOMESTEAD TER	18
13,562	08-240	HOMESTEAD TER	20
53,768	13-101	SAINT THERESA ST	7
11,048	14-088	PATLEY RD	9
2,059	18-032	WEST ST	6
2,052	18-033	WEST ST	8
8,580	18-034	WEST ST	10
4,082	18-035	WEST ST	14
4,301	18-036	WEST ST	16
30,622	18-037	WEST ST	18
63,016	18-038	WEST ST	19
2,153	18-039	WEST ST	13
38,477	18-040	WEST ST	5
231,449	40-067	HAVERHILL ST	57
12,980	42-063	BLISS RD	21
17,255	43-031	OAKDALE RD	44
3,590	43-032	OAKDALE RD	46

Additional properties may be placed within the Affordable Housing Overlay District by amendment to the Zoning Map in accordance with the procedures set forth in M.G.L. c. 40A, Section 5 but only if the parcel, alone or in combination with one or more contiguous parcels under common ownership, meets all of the following requirements:

- A. Includes at least 10,000 square feet of contiguous upland;
- B. Has access to public water or access can be provided with development of the parcels; and
- C. Is not located in any Industrial District or the Highway Business District.

§ 200-119. Effect of Affordable Housing Overlay District.

The Affordable Housing Overlay District regulations of this article apply in addition to the underlying zoning district regulations. In case of conflict between the regulations of this article and other regulations in this Bylaw, the regulations of this article shall control. Where no Affordable Housing Overlay District regulation is stated in this article, the regulations of the underlying zoning district and all other applicable provisions of this Bylaw shall apply.

§ 200-120. Use Regulations.

- A. The following uses shall be permitted in the Affordable Housing Overlay District:
 - (1) One-family detached dwelling.
 - (2) Two-family dwelling.
- B. The following uses require a special permit from the Community Planning Commission:
 - (1) One-family attached dwelling, up to four units per dwelling.
 - (2) Multi-family dwelling; new construction, up to eight units per dwelling.
 - (3) Municipal building reuse for multi-family housing.

§ 200-121. Dimensional and Density Regulations.

- A. Uses and structures in the Affordable Housing Overlay District shall comply with the following requirements:

Use	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Yards		
			Front	Side	Rear
One-family detached dwelling	10,000	100	25	20	25
Two-family dwelling	12,500	100	25	20	25
One-family attached dwelling	20,000	125	25	25	40
Multi-family dwelling (see	30,000	125	25	25	40

Subsection B)					
Municipal building reuse (see Subsection C)	----	----	----	----	----
	Maximum			Minimum Open Space (%)	
Use	Height (feet)	Height (stories)	Building Area (%)		
One-family detached dwelling	35	2.5	20%	40%	
Two-family dwelling	35	2.5	25%	40%	
One-family attached dwelling	35	2.5	25%	40%	
Multi-family dwelling (see Subsection B)	35	2.5	30%	50%	
Municipal building reuse (see Subsection C)	---	---	---	---	

- B. In addition to the requirements under Subsection A above, for a one-family attached dwelling or a multi-family dwelling, maximum density shall be one unit per 5,000 square feet of lot area.
- C. For a municipal building reuse project, Subsection A shall apply except where modified by the following dimensional and density regulations:
- (1) The minimum front, side and rear yard setbacks shall be the lesser of (a) the minimum setbacks in Subsection A or (b) the setbacks of the existing building.
 - (2) A municipal building may be altered or expanded for reuse as multi-family housing, but in no event shall an expansion project exceed 1.25 times the gross floor area of the existing building.
 - (3) The minimum lot area per dwelling unit shall be 5,000 square feet.
 - (4) The maximum height shall not exceed the height of the existing building, except that the Community Planning Commission may grant a special permit for one additional story above the number of stories in the existing building.

§ 200-122. Affordable Housing Regulations.

- A. An affordable housing unit shall be affordable to a low- or moderate-income household, i.e., a household with income at or below 80% of area median income (AMI), adjusted for household size, for the metropolitan area that includes the Town of North Reading, as determined by the United States Department of Housing and Urban Development (HUD).
- B. Affordable units shall meet the requirements of the Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) for inclusion on the Chapter 40B Subsidized Housing Inventory.
- C. The minimum affordable housing requirement is as follows:
- (1) One-family detached dwelling: in a single-unit development, the one-family dwelling shall be an affordable unit. In a development of two dwellings, at least one dwelling shall be an affordable unit. In a development of three or more dwellings, at least one out of every three dwellings shall be an affordable unit.

- (2) Two-family dwelling: at least one unit shall be an affordable unit.
 - (3) One-family detached dwelling or multi-family dwelling: at least one out of every three units shall be an affordable unit.
 - (4) At least 10% of the multi-family housing units shall be affordable in accordance with this Section. The maximum affordable purchase price shall be determined in accordance with the Community Planning Commission's Rules and Regulations and LIP Guidelines in effect when the proponent applies for a building permit.
 - (5) A development that includes more than five affordable units shall provide a range of affordability, with units priced for households between 65% and 80% of AMI.
 - (6) If the requirements of this section result in a fraction of a dwelling unit, the fraction shall be rounded to the nearest whole number.
- D. Location of Affordable Units. The affordable units shall be dispersed throughout the site or, in the case of one-family attached or multi-family dwellings, throughout the floors and buildings, such that affordable units are not concentrated on one part of the site or in one building or floor. This requirement shall not apply to a one-family detached dwelling.
 - E. Comparable Units. The affordable units shall be comparable to market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems. The affordable units may differ from market-rate units in gross floor area, provided the bedroom mix in the affordable units is generally proportional to the bedroom mix in market-rate units.
 - F. Marketing. For the affordable units, the selection of eligible purchasers or renters shall be carried out under an affirmative marketing plan approved by the Community Planning Administrator. The affirmative marketing plan shall describe how the applicant will accommodate local preference requirements, if any, established by the Town.
 - G. No building permit shall be issued until a regulatory agreement or other form of affordable housing restriction has been recorded at the Registry of Deeds, executed by the applicant, the Town and DHCD, where applicable, to restrict sale, rental and occupancy of affordable housing units to low- or moderate-income households and to provide for administration, monitoring and enforcement of the agreement during the term of affordability. The regulatory agreement shall run with the land in perpetuity or for the maximum period of time allowed by law, and shall be enforceable under the provisions of G.L. c.184, Sections 26 or 31-32.
 - H. The proponent shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify the affordable units for listing on the Chapter 40B Subsidized Housing Inventory.
 - I. The proponent shall be responsible for preparing a monitoring and enforcement plan acceptable to the Planning Board and providing the funds necessary for an independent monitoring agent to carry out the approved plan on behalf of the Town.
 - J. A Certificate of Occupancy for an affordable homeownership unit shall not be issued until the proponent submits documentation that an affordable housing deed rider previously approved by the Community Planning Administrator has been executed by the proponent/seller and the affordable unit homebuyer and recorded at the Registry of Deeds.

§ 200-123. Special Permits.

- A. The Community Planning Commission shall be the special permit granting authority for uses in the Affordable Housing Overlay District.
- B. Special permit application, review and decision procedures shall be in accordance with §§ 200-25B and 200-28 of this Bylaw.
- C. The Commission's decision shall be based upon the criteria set forth in § 200-28 and the degree to which the proposed development:
 - (1) Addresses the purposes of the Affordable Housing Overlay District;
 - (2) Accommodates the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets;
 - (3) Is considerate of scenic views from public ways and developed properties, given the proposed site arrangement and building design;
 - (4) Minimizes visibility of parking and service areas from public streets through site arrangement, and provides appropriate screening for such areas from abutting premises;
 - (5) Maintains domestic scale in building design through massing devices, such as breaks in wall and roof planes and through the design of architectural features;
 - (6) Provides for safe and convenient pedestrian and vehicular movement to, from and within the site, arranged so as not to disturb abutting properties; and
 - (7) Complies with the Design Standards in § 200-124.
- D. Conditions: The Commission shall impose conditions in its decision as necessary to ensure compliance with the purposes of this Bylaw. Approval of a project shall be conditioned to provide that no further division of land which increases the number of lots or units or results in any alteration of the area to be set aside as open space may occur without a modification of the special permit.

§ 200-124. Minimum Design Standards.

- A. Mandatory Requirements. Unless modified by special permit from the Planning Board, the following design standards shall apply to any new dwelling in the Affordable Housing Overlay District.
 - (1) The front façade and main entrance of the dwelling shall face the street and must be clearly articulated through the use of architectural detailing.
 - (2) Rooflines shall be pitched or gabled.
 - (3) Except for a basement-level garage below grade under a one-family detached dwelling, any garage, carport or other accessory structure, attached or detached, shall be located at least 15 feet behind the front of the principal building facing the front property line. The

Community Planning Commission may grant a special permit to waive this requirement when it is infeasible to comply due to physical or other constraints on the lot, subject to the following:

- (a) No garage shall be located closer to the front lot line than the foremost façade of the principal building facing the front property line, and
 - (b) No garage shall occupy more than 40% of the front façade of the building.
- B. Design Preferences (Optional). The following design standards should be addressed for any new dwelling in the Affordable Housing Overlay District.
 - (1) The front entrance of the dwelling facing the street should be defined by at least one of the following: a porch of at least eight feet in width and depth, pent roof, roof overhang, hooded front door or similar architectural element.
 - (2) A building should incorporate architectural styles, building materials, and colors used in surrounding buildings or that are compatible with the neighborhood.
 - (3) A building greater than one story should clearly delineate the boundary between each floor of the structure through belt courses, cornice lines, or similar architectural detailing.
 - (4) There should be overhanging eaves.

§ 200-125. Off-Street Parking.

- A. The minimum required off-street parking shall be two spaces per dwelling unit, except that for a studio or one-bedroom unit, one parking space per unit shall be required; and for age-restricted units, an average of 1.5 spaces per unit.
- B. The required parking spaces may be located in an accessory garage, in a dedicated parking area on the lot, or stacked within the driveway serving the development. When the parking spaces are located outside, the area used for parking shall be graded and drained so as to prevent surface water accumulation within the parking area and to prevent surface water runoff to an adjoining property or the public way.
- C. No off-street parking space shall be located within the minimum front yard setback.
- D. There shall be a landscaped buffer of not less than four feet between any driveway and the nearest side lot line, and no paved surface areas and no off-street parking shall be permitted within the buffer zone.

§ 200-126. Severability.

In the event that one or more of the provisions of this article are determined to be illegal or unenforceable by a court of competent jurisdiction, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this article which remains in full force and effect.